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A SURVEY OF THE POLITICKS OF Mr. Thomas White, Thomas Hobbs, AND Hugo Grotius.

ALSO

ELEMENTS OF Power & Subjection: Or the Causes of Humane, Christian, and Legal SOCIETY.

By ROGER COKE.

LONDON, Printed for G. Bedell and T. Collins, and are to be sold at Middle-Temple-Gate in Fleetstreet. 1662.

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To the Kings most Excellent Majesty,

CHARLES II

By the Grace of GOD,

KING of *GREAT BRITAIN, FRANCE* and *IRELAND,*

Defender of the Faith.

IF it were not unbecoming confidence, (*Most Eminent of Kings!*) in *Hugo Grotius*, who at most did owe Your Illustrious Uncle *Lewis* the Thirteenth, but a topical and temporary obedience, to dedicate his Book *De Jure Belli & Pacis*, to him, founded upon such feigned and inconsistible principles, because written for *Justice*: Then will it not ill become a natural Subject of Your Majesties, who by all divine and humane laws owes an indelible character of obedience to Your Majesty, to implore Your patronage of *Justice*, founded upon the true and genuine causes. Nor is there any attribute of *Justice*

 which

which *Grotius* there aſcribes to Your Uncle, but is as properly or more due to Your Majeſty. For, if *Lewis* were juſt, becauſe above any thing which might be ſpoken, he did honor the memory of the great King his Father, by imitating him; how juſt then is Your Majeſty, whenas not all the ſtorms of adverſe fortune in Your Father or Self, could ever any ways ſhake the conſtant veneration You have always paid his Saintlike memory, by imitating him; whereas proſperity did almoſt ever fill the ſails of Your Uncle and his great Father! If he were juſt, becauſe he did inſtruct his Brother by all means, but moſt by his own example; then is not Your Majeſty leſs juſt, who by all means, but moſt by Your own Example, hath ſo well inſtructed Your Brethren, that they in all reſpects anſwer the dignity of their high extraction, and whoſe eminent Virtues have attained ſuch a height of perfection, that they are juſtly celebrated all over Chriſtendom with admiration! If he were juſt, becauſe he did adorn his Siſters with higheſt matrimonies; (yet certainly it was rather the felicity of his fortune, then acts of his juſtice, that he was by the marriage of his Siſters allied to all the greateſt Hereditary Princes of Chriſtendom:) how juſt then is your Majeſty, who hath ſo adorned Juſtice and Piety, that as being by nature wedded to theſe (though born one of the greateſt Princes of the Weſtern world) You have preferred them before the enjoyment of Three Kingdoms! If he were juſt, becauſe he did call back the almoſt buried Laws, and oppoſed himſelf to a Generation making haſte into worſe: Who then can expreſs Your juſtice, who hath recalled our

buried

buried and almoſt forgotten Laws, and who with moſt manifeſt danger, yet by Providence miraculouſly preſerved for your Subjects deliverance, did oppoſe your ſelf againſt the Tyranny of the moſt perverſe generation of men that ever pretended to be Chriſtians! If he were not only juſt, but alſo clement, whenas he took from his Subjects, who by ignorance of his goodnes had tranſgreſſed the bounds of their duty, nothing but the liberty of ſinning, nor did force their conſciences differing from him in Religion: Let the world then judge and admire your juſtice and clemency, who of your own accord does refer the moſt perpretrated villany committed in the ſight of the ſun, upon the perſon of your Royal Father, not by your Subjects ignorant of his and your goodneſs, but by thoſe who had known his clemency and goodneſs, and in the worſt of their wickedneſs needed not have deſpaired of his favor, to thoſe of your Subjects neither convened nor elected by your authority! And are ſo far from taking any thing from your peccant Subjects, more then liberty of ſinning, that you admit of a reſtitution to thoſe of your Subjects, who by ſuch undue means had invaded the ſacred patrimony of Gods Church, & your Crown. And though theſe things were committed upon pretence of Religion; yet ſo tender is your Majeſty, that you will force no mans conſcience, not of theſe men! And if it were juſtice and mercy in your glorious Uncle, in the proſperity of his fortune to relieve oppreſſed people and Princes by his authority; then was it no ways leſs juſtice & mercy in your Majeſty, that in the adverſity of your fortune, you did by all

means endeavour by your authority to relieve the oppreſſed and diſtreſſed Princes and people of Chriſtendom.

To you therefore, *Great Sir!* being the Fountain and Centre of Juſtice in theſe your rightful Dominions, in the loweſt poſture of humility, do theſe *Obſervations* and *Elements* preſume to offer themſelves, though not upon any confidence of themſelves, or Author, but becauſe written for and in defence of Juſtice. To You, *Sir*, who by an indifferent adminiſtration of juſtice, received and known Laws, and moderating the ſeverity of them, (Your Majeſty being their Moderator, as well as Arbitrator) where it becomes impoſsible for your Subjects to fulfil them, or, inconvenient to Your ſelf, or Subjects, in rigor to execute them, (if it be not your Subjects fault) ſhall not leſs, under God, confer peace and happineſs, to all ſorts of them, then the Sun by its effluence does diffuſe life and light to all the various creatures of the Univerſe. This is it, which in time will reduce your wandring Subjects to the ſecure and known paths of their Allegiance, out of which they have gone aſtray: This is it, which will ſecure you from the imputation of Tyranny, and convince your adverſaries that it is not your fault in governing, but theirs in diſobeying, if hereafter they bring upon themſelves the miſeries and calamities of another Civil war: And this is that, which will evidence to the world, that then your adverſaries became enemies to your Royal Father and Self, when they firſt trod under foot the eſtabliſhed and received Laws of their Country; and that it is, and always was the deſire of Uſurpers, who having

no juſt title but new Oppreſsion, to introduce more new Inventions of their own, in place of the old Laws. This is it, which after your Majeſties gracious *Act of Oblivion* for crimes paſt, will ſo ſettle the minds of your Subiects, that in the known ways of their anceſtors,, they may expect favour and protection from your Majeſty. This is it, which will ſo genuinely and equally ſupport your Majeſties Title, that as it is ſo derived from the loins of innumerable Royal Anceſtors, as no man can ſhew where it began; and ſo clear, that in the world no man preſumes to ſtand in competition with You; ſo it is ſupported by received Laws of that continuance, that they have loſt their firſt original.

I preſume not, *Sri*, to ſay this of mine own head, to adviſe your Majeſty, much leſs have any diffidence of your Majeſties governing your Subjects any other way then by the eſtabliſhed & received Laws of the Nation, where mens vices and depraved manners do not require new ones: I deſigne no more then to demonſtrate, that it was not your Ma$^{jeſt.}$ Fathr's, & your own adherence to the eſtabliſhed laws, but the iniquity of the times, which made him a Victim, & your Sacred ſelf an Exile. Nay, in reaſon, as well as juſtice, it had bin a moſt imprudent thing in either of your Ma$^{jeſt.}$ to have given up the Laws to the arbitrary luſts of your Adverſaries, or any one Faction: For, ſhould either of your Majeſties have indifferently renounced the laws to your Adverſaries, being compounded of ſuch different & contrary humors, & affections, then there was no viſible means under heaven to have cemented them & by conſequence your Adverſaries hoſtility & confuſion continued, and your own conditions no wayes

bettered or ſecured: Or ſhould either of your Majeſties have renounced the Laws, to have advanced any one Faction ſo above the reſt, & all your loyal Subjects, that their arbitrary wils and luſts ſhould have been the laws of all the reſt, and your other Subjects alſo; yet ſhould you not only have failed to have contented that Faction, (it being the nature of Faction, never to bear any grateful acknowledgment for benefits received, but on the cnotrary always abuſe them to their prejudice from whom they received them, and never reſt until they have made themſelves all, and their Benefactors nothing at all, or vile and miſerable) but have animated all the other Factions againſt your Majeſties and it.

To the fulfilling of ſingular and glorious Virtues in Your Sacred perſon, is added Your being a Chriſtian King, and a Nurſing Father of the Church of Chriſt; and as if immediately ſent from Heaven to cure and repair the wounds of this moſt miſerably diſtracted Church, although Your Majeſty is deſcended from innumerable Royal Anceſtors, who have been Nurſing Fathers of Chriſts Church; yet are you not derived from any who have had the leaſt hand in the late Sacriledge thereof. And though, *Sir*, You are and ought to be a Nurſing Father of Gods Church, and a Patron and Defence againſt her ravenous and devouring Adverſaries, yet none of mortal men have been more Religious Sons of the Church, then Your Majeſty, and Your Saintlike Father.

How unequal, and how unjuſt then have been the ſuffrings of Princes ſo juſt, ſo religios, cauſed by Chriſtians, Your natural Subjects, and theſe pretending Conſcience? whereas no School teaches men a better

leſſon

leſſon of obedience to Princes, then the Chriſtian faith; whenas the firſt principle or foundation of Subjects obedience to rightful Princes, is founded in the Law of Nature; however popular Orators and Atheiſts have, againſt all ſenſe, reaſon, nature, and all authorities of ſacred and profane Hiſtory, reſolved it into the pacts and wills of men. And conſcience always ſuppoſes ſome ſuperior law informing men to do, or not do a thing, or ſuffer, when any ſubordinate power commands contrary to it; whereas Your perſecutors pretending conſcience, trod underfoot whatſoever might be called ſacred, to the attaining their ſeditious and ſacrilegious ends.

That God in his providence doth often permit the good and juſt to ſuffer perſecution, is evidently ſeen in all ages and places: But in reaſon and prudence, neither Your Majeſties Father's, nor Your own adherence to the eſtabliſhed Government of the Church, and the Rites, Liturgy, and Means thereof, in Your adverſities, when they were ſo zealouſly perſecuted by its and Your adverſaries, could be any cauſe thereof: Neither would the deſertion of it, have any ways conduced to either of Your Majeſties advantage; for, ſhould either of Your Majeſties have renounced the Church and rites thereof, ſo as to have been a Chriſtian King of ſuch Miſcreants, who (beſides that they would not be of any Chriſtian Church or ſociety) had by undue ways devoured the patrimony of the Church; yet no man in his right wits could have imagined ſuch men would long have been governed in peace, or that all other men of their factions would have been content, who had not made a prey thereof; and there was not ſufficient to content all, nor indeed any at all; or that the canine appetites of thoſe

men

men who had devoured the lands of the Church, would not also have hungred after those of the Crown. Or should Your Majesty have advanced any one Faction so above the rest, that it should not only have tyrannized over the rest of the Factions, but also Your Majesty and the rest of Your subjects; yet could it not in reason have been expected, that this Faction (who by all Divine and Humane laws were subject to a Government, founded upon our Saviour and his Apostles, and by a continued series dispersed over the face of Christianity, until of late it became violated in some places of *Europe* by seditious and sacrilegious men) should so unjustly cast off their obedience so rightfully due, and yet expect that their wills and lusts should long be received for Laws by the rest of the Factions, and all other of their fellow-subjects. But certainly, Your constant adherence to the Church, did proceed from the power and grace of God in You, before any prudential or moral cause.

Notwithstanding that your Majesty is so constant a Preserver of Christs Church, and Propagator of Christian religion, and that your own conscience hath been so often attempted to be violated (by men of none at all indeed;) yet so tender is your Maiesty of other mens, that you will not force the conscience of any of your subjects, pretending it. A strange condescension, any one will judge, who considers the parties granting, and expecting: For, should your Majesty command your Subjects any thing in derogation to the Majesty of God, or forbid them the worship and service of God, your Subjects might then justly plead conscience, because the duty and allegiance which they owe to God, is in the first place to be paid by all his creatures: Or should your

Majesty

Majesty command any thing which were immoral or unjust, as that your Subjects should dishonor your Majesty or their Parents, &c. they might justly plead conscience, because that for Subjects to honor their King, and children their Parents, is founded in Nature, and is a Law of God engraven in the minds of all mortal men; or should your Majesty have lived in the Primeve times of Christianity, when men by the light of Humane Nature apprehending a Deity to be publickly Worshipped and Served, yet being ignorant of the manner, misplaced it in *Osyris*, *Isis*, *Iupiter*, *Apollo*, an *Oak*, &c. then to have compelled them to have Worshipped God after the manner of Christians, had been unconscionable and unchristian, because they paid an acknowledgement of that Worship due to God by Nature, and could not by Nature apprehend this, but must wait upon God, until (that by the ordinary means of the Church, or supernaturally inspired by God,) they should be converted thereunto: Or should your Majesty command any thing in derogation to Christian Faith or Religion, they might plead Conscience, because the Obedience they owe thereunto is superior to all Humane Laws: But when as God is to be publickly Worshipped, and your Majesty obeyed by the light of Humane Nature; whenas he that heareth, and obeyeth not the Church, is to be accounted an Infidel and Heathen man; and neither your Majesty nor Church enjoyning any thing contrary to the Law of Nature, or Gods Will revealed in Scriptures, but conformable to these; for men, your natural Subjects, and Born and Baptized in a Christian Church, in contradiction to all these, to plead Liberty of Conscience, to be Atheists, Hypocrites, and Schismaticks, is such a mon-

ſtrous Paradox, as is not imaginable ſhould proceed from reaſonable creatures, not aiming at ſome further miſchief: And when your Majeſty ſhall with bleeding tears reflect upon the manners of theſe men thus pretending Liberty of Conſcience, you will finde them never to have made any conſcience of Liberty, their Manners no whit better then their Religion: but as great enemies to Humane Society, as Chriſtian Religion: For they no ſooner, upon pretence of Liberty of Conſcience, got licence of action, but what followed; Rapine, Plunder, Sequeſtration, Sacriledge, Regicidiſm and Murder, upon the Eſtates of the Church, Crown, and the Sacred Perſon of your Royal Father, and the principal members of Church and State, who were your beſt and moſt Loyal, and their Fellow-Subjects: when as by the Law, or Light of Nature, no man ought to do that willingly to another, which he would not have done to himſelf. Nor is this humor only Topical, or confined within the limits of your Dominion; but whereſoever men would not pay the Duty they ought to God in the firſt Table, they have never better perform'd that to their neighbor in the ſecond, although it hath not pleaſed God to permit them to attain ſuch a degree of Impiety, as here in your Majeſties Dominions; and your Majeſty may believe it, that the times are changed, not theſe mens manners and diſpoſitions, to attempt the like again whenſoever they get an opportunity; however, theſe things at preſent will be better cured by your Majeſties Chriſtian Patience and example, then by your ſevere Execution of the eſtabliſhed Laws againſt them; yet if the Laborer be worthy of his Hire, then is he who is Hired worthy to Labor; and theſe men who pretending Conſcience, neglect or refuſe

refuſe to perform the Dudies of the Church, are utterly unworthy the Means of the Church.

Mans neceſsity is Gods oportunity : It is Gods uſual way in his Providence (doubtleſs to manifeſt the greatneſs of his Power to us Mortals here below) when mens extremities are at the higheſt, then to relieve them, having, it may be, the leaſt reaſons or hope to expect it; and indeed what leſs then the power and grace of God in a Chriſtian Prince, ſo Religious, ſo Juſt, ſo Merciful, and ſo deſcended, at ſuch a time, could have cured the wide wounds of our miſerable Church, and diſtracted State? *D'avila* reports of *Coligny* the Admiral of *France*, that he would uſually prefer himſelf before *Cæſar* or *Alexander*, becauſe they acquired greatneſs by proſperous Fortune; whereas notwithſtanding that Fortune was always adverſe to him, he ſtill roſe more formidable and terrible to his adverſaries : Sure it is an admirable thing, that after all the adverſity of your Affairs, God ſhould without force or blood, exalt your Sacred Head above the Storms and Waves of ſuch Enemies, who had neither Religion, Law, Juſtice or Reaſon, but only force and blood in ſtead of, and againſt theſe, to maintain their Cauſe.

It cannot but be a conſolation to any man in adverſity, rightly conſidering, how God (in the ordinary nature of things,) does afflict men who place happineſs in things of this world, and reward the afflictions of men (eſpecially who ſuffer for a good Conſcience) even in this world; for no man placeing happineſs in things here below, can ſo enjoy them, but neceſſarily a time will come when he ſhall ſay, I take no pleaſure in them; and then it will be *miſerum fuiſſe beatum*; whereas other men who are afflicted, and ſuffer perſecution, are no ways affighted

affrighted at the terrors of death, but rather with joy expect happiness in another world, after they shall be freed from the cares and troubles of this; or if it pleases God to free them from their afflictions here, then they truly convert *miserum fuisse beatum*, into *beatum fuisse miserum*. Besides your Majesties individual happiness in making so right construction of your precedent affections, and the advantages you have acquired by your severe education therein; your Subjects (like men who have been long sick, will better learn to esteem health) from their many sufferings in your absence, will for the future learn to set a truer estimation upon your Prosperity and Presence. And may the God of Peace, the God of Mercy, and the God of Justice, so Crown the antecedent adverse fortune of You, Sir, the most Peaceable, the most Merciful, Just, and best of Princes, that being as Good and Just as *Trajan*, and as Devout and Religious as *Constantine* the Great, or *Theodosius* the first, you may be of your Subjects as beloved as was *Augustus*, and the Arbitrator of Christendom, as well as Defender of the Christian Faith: And when this your Diadem shall descend to your next Heir, you may then assume a Celestial one, which shall never be subject to time, variation, or chance: Which is, and always shall be the daily Payer of,

SIR,

Your most Devoted,
and most Obedient
Subject,

ROGER COKE.

OBSERVATIONS

UPON

Mr *THO: WHITE's*

GROUNDS

OF

Obedience & Government.

Mr *HOBBS* his Book *De Cive:*

AND UPON

HUGO GROTIUS

De Jure Belli & Pacis.

Prematur, nunquam Opprimitur veritas.

Nulla res magis operæ pretium est, sive ad utilitatem fructuosior, sive ad animi voluptatem jucundior esse potest quàm Justitia, quâ quidem post Deum Immortalem, rerum omnium Publicarum Fundamenta, nituntur.

Corruptio verò optimi, est pessima.

By ROGER COKE.

LONDON:

Printed by *T. N.* for *G. Bedel* and *T. Collins,*
at the Middle-Temple Gate. 1660.

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OBSERVATIONS

UPON

THE NATURE

OF

GROUNDS

OR

Obedience & Government.

WHOSE Book Do Grave

AND UPON

HUGO GROTIUS

De Jure Belli & Pacis.



BRITISH MUSEUM

BY ROGER COKE.

LONDON:

Printed by T. N. for S. Bedel and T. Collins,
at the Middle Temple Gate. 1660.

TO THE READER.



I Have often with great admiration conſidered in my ſelf, how that all men, good and bad; rich and poor, noble and ignoble, have with one voice commended Virtue, and decried Vice; and yet ſcarce any man in a thouſand hath made Virtue the rule or reaſon of his actions. Nor is it a thing leſs worth admiration to conſider, how that all men generally have not only a natural ſpight againſt their Superiors, and are unwilling to obey them, but alſo a propenſe deſire to attain to Liberty, and do tread under foot all things which may be called ſacred, to the attaining thereof; and yet at no time or place in the world, did ever men accompliſh it. I did therefore conclude with my ſelf, that not only all Moral Virtue, but Humane Society, did proceed from higher then any humane, or voluntary cauſes.

Nor was that leſs abhorrent to me, which men in this factious age beg for a Principle, *viz. That all men by Nature, or the Law of Nature, are in a like equal condition; and that the Laws of Nature are eternal, and immutable even by God himſelf:* And yet by a continued violence upon theſe eternal and immutable Laws, men ſhould every where in the world live in Society, or in the mutual offices of commanding and obeying.

Yet did not I ſo confidently reſolve theſe things, as to exclude what I could argue againſt them: I therefore did ſuppoſe in my ſelf a company of ſuch men, as were in a parity of condition; yet could I never conceive it poſsible that ever any *Civitas* or Supreme power could be derived or created by them: For either this *Civitas* muſt be ſuperior to the *Cives* or People that made it, or not: If it were not ſuperior to it, then could it not govern or rule them; for dominion is always placed in the ſuperior part: If ſuperior to it, then was the Creature or Inſtrument ſuperior to the Cauſe and Creator, which is moſt abſurd. Nor was it to me leſs monſtrous to imagine, that any thing could give or transfer that to another, which it ſelf hath not; but this people or multitude, who ſhould make this *civitas*, had neither *Jus vitæ* or *necis*, nor Property ſeperately nor conjunctly; they could not therefore endue another with that power, which none of them, nor all of them together had, and without which, there can be no ſupream power which may protect and defend Subjects.

But I did not inſiſt onely upon this, but ſuppoſed that the *cives* could make a *civitas*, which ſhould

be

be ſuperior to them, and endew it with a power which none of them, nor all of them had; yet was I no leſs perplexed then before, who theſe *cives*, which ſhould make this civil Pact ſhould be? and who ſhould be ſubject to it? If onely thoſe be the *cives*, who made this *civitas*, and they onely ſubject to it? then were Women and Children, who were none of the *cives* that made this *civitas* free and independent from it: Nor could all the people or multitude of both Sexes, and all Ages, in ſuch an imaginary ſtate, be the *cives* which muſt conſtitute this *civitas* by virtue of the civil Pact: For many muſt neceſſarily be ſo yong, as not being *compotes mentium*, they could have underſtanding ſufficient for the doing ſuch an act: And if no Laws oblige Men to their Pacts and Contracts done under ſuch an age, then ſure it muſt be unreaſonable, that Children and Infants ſhould be obliged to their act, if they then did it; or therefore obliged, becauſe others had done it, upon whom they had no dependence.

Well, but ſuppoſe theſe men in ſuch a condition to be qualified to do ſuch an act, yet did another doubt ariſe, which I could no ways ſalve, *viz. Who ſhould define at what age the Men ſhould be, who ſhould conſtitute this* civitas? Well, I went yet further, I ſuppoſed it granted, That it ſhould be agreed at what age Men in ſuch a condition might give up their wills, and conſtitute a *civitas*; yet was it not in reaſon probable, that this *civitas* ſhould be of one days continuance: For being formally conſtituted of ſuch individual *cives*, it could not be of any longer continuance then the cauſe, *Sublata cauſa, tollitur & effectus*;

but

but the next day, ſome of the *cives* would be probably dead, and others grown up to be of age, who were none of thoſe individuals which did conſtitute the *civitas*. Well, but I ſuppoſed the *cives* who made this *civitas* to be immortal, and no poſterity; yet could not I in reaſon expect it to be of any continuance; for *cujus eſt velle, ejus eſt nolle*, and not onely all juſt and legal actions, but all Arts and Sciences, may truly and ultimately be reſolved into their firſt Principles, without any diminution to them. The People therefore conſtant in nothing but inconſtancy, could not in reaſon be expected conſtant and obedient to their Creature the *civitas* onely, and yet ſo in nothing elſe: Beſides, I always did believe, and yet do, that all Mens Pacts and Wills muſt be conformable to the Laws of every place, and where they are againſt them, then do they oblige no further then to Repentance: Much more therefore ought all mens Wills and Pacts, to conform and ſubmit to the Laws of Nature, and never tranſgreſs that; and that all Pacts and Acts of mens Wills made againſt it, oblige to nothing but Repentance: Nor is there any thing more abominable, then to conceive that the Acts of mens Wills ſhould irritate the Law of Nature, which they ſay is immutable by God. Hence it is, I conceive, that Mr. *Hobbs*, will not have all men to be of a like and equal condition *lege naturæ*, but *jure naturæ*; and therefore moſt abſurdly makes *jus naturæ*, to be contrary to *lex naturæ* (and yet oftentimes in his *Preface*, and *Cap.* 8. *Art.* 10. confounds *jus* with *lex*) and that the Acts of mens Wills, to make them in a better eſtate then God hath made them, ſhould

Formæ rerum ſicut numeri conſiſtunt in indiviſibili. They could not therefore be the *cives*, that did conſtitute the *civitas*, and by conſequence no ſuch could remain as the *civitas*.

ſhould be the Law of Nature, or of God: Whereas on the contrary, If no man that ever was born in the World, which was not a *Poſthumus King*, but was born in ſubjection, not onely to his Parents, or as a Servant in a Family, but to ſomething ſuperior to theſe; then cannot the will of that man, nor all the men in the World, alter or make that man in another condition then that, whereof neither any act of his will, nor the will of any man elſe, was the cauſe.

But yet did not I conclude things, onely as I was an intellectual or rational Creature; but being a Chriſtian, I ſubmitted all my Reaſon and Underſtanding to the moſt high Authority of ſacred Scripture, in thoſe plain places which admit of no Controverſie, where both in the *Old* and *New Teſtament*, the firſt cauſes of ſupream Power are owned to be Gods Ordinance; *By God Kings raign, and Princes decree Juſtice*; and there can be no power but from above, *Joh.* 19. 11. And all power is in relation to ſomething ſubject to it. Rom. 13. Prov. 8.

But becauſe I would not ſeem to ſee only with mine own eyes, I deſired yet to be better informed of theſe things, and from whom better then Mr. *Hobbs*, and *Hugo Grotius*, (Men no doubt of as eminent learning and parts, as any this laſt Age hath produced) theſe Men both derive their *civitus* from ſuch Principles, as is before ſpoken of, *viz. From the Pacts and contracts of Men in a parity and equal condition*; but ſo far was I from being convinced, that (if I underſtand them aright) I was amazed to ſee ſuch inconſiſtible and impoſsible things to come from Men, otherwiſe ſo learned.

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For though Mr. *Hobbs* does lay down his Principles, and perſue his method much more clearly then *Grotius* does; yet his Principles are ſo monſtrous, That to me it is impoſsible any ingenuous Man ſhould aſſent to them. Indeed if Mr. *Hobbs* would have ſuppoſed, that the ſtate of Man had been either in Society, or out of Society; and that out of Society, Men had been in ſuch a ſtate as he makes them, in his ſtate of pure Nature, I ſhould never have ſtumbled at it: But, he forſooth, requires it for a Principle, *That all Men* jure naturali, *are in a parity and equal condition, and may kill one another without any offence or ſin; and that Men continue in this eſtate, until by their civil Pact, they oblige themſelves to one another, that the will of the* civitas *ſhall be the will of them all.* Notwithſtanding this, I muſt needs ſay of Mr. *Hobbs*, That if Men have ſo little underſtanding, as to make *Jus naturale* to be contrary to *Lex naturalis*, and ſo little grace as to believe that the *civitas* hath all its power from the Pacts and wills of Men, and yet impoſsible to command any thing contrary to the Law of Nature (which he ſays is the Law of God) and tyranny to be onely *ab exercitio*, when as it is impoſsible for Kings to command any thing contrary to the Law of Nature; and all Faith and Ghoſtly Power which our Saviour left in his Church, to be inſtrumental and ſubſervient to it; and never look how little he underſtands a Pact, or from whence Men become obliged to it; the *cives* of this *Utopia* may do well enough.

Yet thus much I will tell Mr. *Hobbs*, he may as wel ſuppoſe a Brute an intellectual or rational Creature, or a man no intellectual or rational Creature, as no ſociable, or out of Society.

If I edified but little by Mr. *Hobbs*, yet I received much leſs ſatisfaction from *Grotius*; for Mr.

Hobbs

Hobbs defines his terms so clearly, as to me, he was easily understood; whereas all *Grotius* his Principles are so perplexed, and equivocal, that it is not possible for any Man to understand any thing clearly from him. As the first thing in his *Preface*, he confounds, is, *Societas & Communitas*; whereas *Societas* is as different from *Communitas*, as black is from white; *Societas*, according to the definition of *Aristotle*, being *Unum quid ita constans ex diversis personis, ut sit unum quod imperet, alterum quod pareat.* Society is one thing so made up of divers persons, that one may command, another obey; Whereas community is, where any company of Creatures are, without the offices of commanding and obeying. Pol. lib. 1. cap. 5.

Well, but having got out of his *Preface*, after some Propositions of his Method, &c. he in the Tenth Paragraph of the First Chapter of the First Book *De jure Belli & Pacis*, defines *Jus Naturale* in a tedious general thing, to be *dictatum rectæ rationis, &c.* and this to be the Law of God; and about the middle, to be immutable by God himself; and towards the latter end, to continue but for a certain space; and towards the beginning he makes the Dominion which is now in use, to be brought in by the will of Man, and this to be *Jus Naturale* too. Now let any ingenuous Man judge, what can be clearly deduced from *Jus Naturale*, which is the Law of God, and immutable by God; and yet to continue but for a certain time, until a Dominion brought in by the will of Man, should abrogate what was immutable by God; and this Dominion thus brought in against this *Jus Naturale*, to be

Jus Naturale too. If I have ſlandered *Grotius*, let any Man ſee the Paragraph aforeſaid.

It was to me an admirable thing to conſider, that men ſo learned, ſhould one of them define the Law of Nature to be *Dictamen rectæ rationis*, the other *Dictatum rectæ rationis*. Well, I will therefore ſee what *Ratiocinatio* is, and what *Dictamen*, or *Dictatum rectæ rationis* (which is the ſame thing;) and whether this can to any ingenuous man be any probable definition of the Law of Nature.

Ariſtotle, Eth. Lib. 6. Cap. 3. makes Ratiocination, and by conſequence every dictate of Reaſon, to be from Univerſals; and that there are ſome Principles which do conſtitute the Ratiocination, of which there can be no Ratiocination. Theſe Principles for which no Reaſon can be given, and yet the reaſon of all thoſe things which can be deduced from them, are called *Axiomata*, *Dignitates*, or *Communes Notiones*; and from theſe, men by Ratiocination or Right Reaſon, do infer Arts and Sciences[a]: Nay, all Ratiocination or Right reaſoning whatſoever, may be reſolved into ſomewhat which is ſuperior to this Ratiocination; for which no reaſon can be given *.

Well, but let us ſuppoſe the Law of Nature to be the dictate of Right Reaſon, and ſee the conſequence. Every dictate of Right Reaſon, is of leſs Dignity, Authority, and Excellency, then the Right Reaſon, *viz.* The Effect, then the Cauſe: But *ex hypotheſi*, the Law of Nature, *viz.* the Law of God the Creator, is the dictate of Right Reaſon. Therefore is the Law of the Creator, of leſs Dignity,

[a] *Scientia eſt actio, ars effectio.* Eth. l. 6. c. 4. Both begotten by right Reaſon. *Ars eſt habitus ad faciendum idoneus cum verâ ratione conjunctus.*

* Theſe things thus premiſed, I ſay it is impoſſible the Law of Nature ſhould be the dictate of Right Reaſon, and thus I prove it; Every Principle which does conſtitute Ratiocination, and for which no Reaſon can be given, is no dictate of Right Reaſon. But the Law of Nature is a Principle which does conſtitute Ratiocination; and for which no reaſon can be given; Therefore the Law of Nature is no dictate of Right Reaſon. If Mr. *Hobbs* denies the Minor Propoſition, let him ſhew into what it can be further reſolved, or what can prove it: For though God be the prime and efficient cauſe of all things, but what proceeds from the will of man, and into which, all things may be ultimately reſolved; yet by Principles *Ariſtotle* and all Philoſophers underſtand thoſe things which immediately proceed from God; and the Law of Nature could not be the Law of God, if it did not immediately proceed from him, but the Law of that thing from which it did immediately proceed; the Law of Nature therefore is a Principle.

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nity, authority and excellency, then the faculty and attribute of the creature, *viz.* Right reason; then which what can be more monstrous and blasphemous?

Nor is this definition less ridiculous, then impossible and blasphemous: For the dictates of Right reason are understood by one man, and not by another, and may be learned and taught. Suppose now, one of these Masters of Reason should come to the most plain and ignorant man in the world, (who is *compos mentis*) and tell him, he would instruct and teach him the most excellent dictate of Reason in the world, *viz. That there is one God infinitely good, who is to be worshiped and served by man; And that this God requires of every man, that in that state wherein he hath made him, he would not willingly do that to another, which he would not have done to himself*: would not this poor ignorant man deride this Master of Reason, and tell him, he knew this, as well as himself? But suppose he should be so impudent as to deny this; since *Grotius* is not in case, I would desire Mr. *Hobbs* to prove it, or give a right reason thereof, and learn this man his Dictate of Right reason.

Well, but let us see whether this Canting thing be worth the name of a Definition. *Omnis definitio, est exclusio æquivoci.* If the Law of Nature be the Dictate of Right reason, then does the Law of Nature exclude every thing else from being the Dictate of Right reason, or this cannot be the definition of it: I would know now of Mr. *Hobbs*, whether all Arts and Sciences, and Prudent actions, be the Laws of Nature, or not? If they be the Laws

of Nature, then is every Inſcientifical and Imprudent man, an Unjuſt man. If they be not the Laws of Nature, and ſo not the Dictates of Right reaſon, then let Mr. *Hobbs* ſhew what elſe does dictate them. Nor is Mr. *Hobbs* leſs happy in defining a *Pact*, upon which he grounds his *Civitas*: It is juſt therefore that this man, who (*Cap.*18. *Art.*4.) makes all Science to be from Definitions only, or Subjects without Predicates, (without which it is impoſsible there can be a Propoſition) and all Science to be from the memory (which is common to all Beaſts, as well as *Mr. Hobbs*; for ſo the *Oxe knows his owner, and the Aſs his maſters crib*, it being only retained in the memory) excluding the Underſtanding, ſhould ſo raſhly define things, and underſtand them no better.

To believe there is a God to be worſhiped and ſerved; and that no man ſhould wilfully, in that ſtate and condition wherein God hath made him, do that to another, which he would not have done to himſelf; is that Law which God hath engraven in the mindes of all mortal men, wiſe and unwiſe, learned and ignorant, noble and ignoble, in their wits, and is the foundation and baſis of all Humane ſociety: And this is that firſt and univerſal cauſe, from which all moral virtues (the dictates of Right reaſon from this cauſe) do more genuinely and naturally flow, then any Propoſition in Geometry does from the Axiomes or Principles of it: For what man is there in this world, of what eſtate and condition ſoever, but deſires not to be wronged and injured? Let not him then in that ſtate, wilfully wrong or injure any other of what eſtate ſoever. If he be a Subject, and deſires to

be protected in his life and fortune, by the Laws of his Country, from the violence and oppreſsion of other men; let not him abuſe or violate the Laws of his Country, to the wrong or oppreſsion of another. If he deſires every man ſhould keep promiſe, and do juſtly by him; let not him break his word, and deal unjuſtly with another. Is he a King? he would not willingly be diſſeiſed or oppreſſed by another; let him not therefore diſſeiſe or injuſtly oppreſs another. Does any King deſire not to be invaded or oppreſſed by his Subjects? let not him therefore oppreſs his Subjects. If he had been a Subject, he would have deſired protection from his Prince, by an equal and moderate diſtribution of known Laws; let him therefore equally moderately govern his Subjects by known Laws. And from this Law did always men deſire, though ignorant of the manner, to worſhip and ſerve GOD, although they miſplaced the Deity in the *Sun*, *Moon*, an *Oak*, *Apollo*, *Jupiter*, &c. And this is that Law which ſhall judge and condemn the immoral actions and vices of men in all Ages, eſpecially in this latter Age, becauſe they ſinned againſt the Light or Law of Nature, engraven in the minds of all men.

Now whether theſe men being Chriſtians in name, yet having caſt off all Chriſtian ſociety, and not being of any Chriſtian church or religion that I ever heard of, ſhould not be content here; but (although they ſcarce agree in any thing elſe) proceed ſo far as to make the Laws of God ſubject and depending upon the reaſons and phantaſies of men; and not to tell them where their reaſons ſhall begin,

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if not at the Laws of God, but every man left to go a whoring after his own inventions? For what can then restrain man, where his Reason is become superior to the Laws of God? and to make all humane society to have its origination from the pacts and wills of men; have not been as great enemies not only to Christian religion, but also to all humane society, as the malice of the Devil could invent, let any sober unbiassed man judge? or if all the confusions and distractions in Christendom (to the shame and scandal of Christianity) have not had their origination from this pretence? Nor hath this senseless resolution of all things into Reason, ended only in the distractions of State, but also been the first source and fountain from whence all these distractions and confusions in the Church have arisen, without any possible hope of ever reconciling them, where these principles are continued. Hence it is, that the venerable and highest Authority of the sacred Scriptures, are become the subject of all Tavern-discourses; and every man that scarce understands any reason, must (forsooth) have a reason given him, why the Scriptures are the Word of God. And yet in all other Authorities whatsoever, men will deride the folly of others, who go about to prove them by Reason; for Reason is begotten alwaies from Authorities and Principles, and therefore cannot Authorities and Principles be begotten from Reason.

I have been often almost astonished to consider, how such senseless, blasphemous, and ridiculous things should meerly from the authority of the Assertors be imposed upon, and received by the world without con-

contradiction; whereas narrowly looked into, one would ſcarce believe the Authors had ever underſtood Logick, or one leaf in *Ariſtotle*. And for my part, if I could not ultimately reſolve the Dictates of my Reaſon as a Chriſtian, into plain places of Scripture, ſo well as any Geometrician could any Propoſition of Geometry into the Principles of *Euclids* Elements; I would be content to let them wander for ever without any termination, rather then admit them (the Scriptures) to be a creature of a creature, and the ſubject of every wild phantaſtical conceit and opinion. And if I could not ultimately reſolve the reaſon of all my moral actions as a man, into the Law of Nature which God has engraven in mens minds, and not into the wills of men; I would be content to conclude with *Carneades*, that men have at divers times eſtabliſhed ſeveral Laws for manners, and by them have been often altered, but that there is no ſuch thing as the Law of Nature; and that all men, as well as other creatures, are naturally carried to their profits: And ſo there is no ſuch thing as Juſtice; or if there were, it were the greateſt folly, becauſe men by endeavoring the good of others, prejudice themſelves.

Since the *Grecians* and *Romans* were the firſt, who in the world did make all power to be from the People; I ſuppoſe that Mr. *Hobbs* and *Grotius* took their Principles from them. Let us ſee whether by the People they underſtand the ſame thing with the *Romans* and *Grecians*, or the ſame thing with one another. By the People of *Rome*, or *Athens*, the *Romans* and *Athenians* underſtood them, and them only, who were *civitate donati*, and not men born

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in a promiſcuous rout and parity, without all order and ſubordination; but made ſo by violent uſurpation. By the People, Mr. *Hobbs* underſtands the King or Court governing. By the People, *Grotius* every where (I believe, for he no where that I can find, defines the People) underſtands the Subjects governed, and they who in a parity or equal condition conſtituted the *Civitas*.

Upon theſe and many other conſiderations and obſervations upon them, I was ſo far from being convinc'd, that I became much more firmly eſtabliſhed then before in my Judgment, (for Opinion I will not have of thoſe things, wherein I am poſſeſt of the conſtant practice of the world in all ages & places; the plain, undubitable, and uncontrolled places of Scripture both in the Old and New Teſtament, and no colour of allegation againſt them from any other places; the Authority of the higheſt Philoſopher; my Country-Laws; and all thoſe Theſes and Axiomes upon which almoſt all Reaſon and Philoſophy are grounded; and theſe things oppoſed by ſuch monſtrous, feigned, equivocal and ſilly beggings of the queſtion, which no man, not blinded with faction, or ſtupid ignorance, can grant) yet had not theſe Obſervations become publique, if it had not been upon an odd occaſion, which was:

Upon a time being with a Brother-in-law, a Kinſman of mine (at dinner) came to my Brothers; where, in diſcourſe, he asked me if I had ſeen a Book of *Tho. Whites*, called *The Grounds of Obedience and Government?* I anſwered no, nor did I deſire to ſee any thing of his doing, having conceived a

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prejudice of the Mans ability and ingenuity. He confidently replied, that I ſhould be convinced, if I did but read it, and that he would ſend me the book. Yet was I ſo far from accepting his courteſie, that I importunately deſired him not to do it: But he notwithſtanding all importunity, on purpoſe ſent his man with it that night to me, being at that time much afflicted with my wonted Melancholy, which became more excited when I had read ſome part of it: And ſeeing a thing ſo ſenſleſs and void of all humanity, to be impoſed upon the world, (which queſtionleſs was intended to prefer ſome Faction or Intereſt of his;) and yet forſooth he tells us, it is a ſecond Edition corrected and amended by the Author; (whereſoever therefore I name our *Author*, I mean *Tho. White* Gent.) I did in deteſtation of the Thing (not of the Man, for I never ſaw him in all my life) ſet my ſelf to make theſe Obſervations upon it.

He harps upon the ſame ſtring with Mr. *Hobbs* and *Grotius*, That *all Supreme Power is originally created by Mens wills ſubject to it*: Yet being a fine Gentleman *in quirpo*, he dances a Galliard by himſelf, and moſt ſenſeleſly makes men out of ſociety to be a Rational multitude, and to have Property before they had Laws or Government, and to be a People after they had given up their power to another to govern them. But leſt it ſhould be objected, that though our *Author* be hood-winked, yet Mr. *Hobbs* and *Grotius* might be very clear-ſighted and bare-faced, I thought it not amiſs to make theſe Obſervations upon them alſo. As a Preparative to a Purge, I pray (*Reader*) take theſe few Notes.

1. First I say, they falsly derive Government: For though they all differ in the manner of it, yet is all Government so far from being so derived as any of them would have it, in the first Institution, that if any of them can shew any one Government so derived since the beginning of the world, I will yeeld the cause.

2. They feign that for a Principle, which never was, *viz*. *That men by nature are in a parity or equal condition*: For never were men since the Creation, in any age or place of the world, in such a condition. But suppose somewhere in the world it might have been found, that men in a like condition did by their acts and wills form themselves into a Society; yet is it a most unreasonable thing to conclude from thence, that all power in Government is from the People: For, Singulars are deduced and concluded from Universals; not Universals by Singulars.

3. The Principle they beg, is destructive to all good manners; for, Justice is the fountain of all humane Virtues and Morality, (as all Philosophers, and best, and wisest men hold:) And if Justice be the duty which men owe their Superiors, and that it may be truly and ultimately resolved into the first cause, without any detriment or damage to it; and if all order, superiority, and power in Government may truly and ultimately be resolved into the People, or the wills of the Subjects, or Party governed; then the wills of the Subjects being the fountain and first cause of all Order and Justice, that is Justice in the People, to do what they list; then which, nothing can be more destructive to all Virtue, Justice, and Good manners.

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4. It is damnably destructive to Faith; for, *All powers are of God*, Rom. 12. and, *No power can be given but from above*, S. John 19.11.

Nor were these Men, when they wrote their several Treatises, *De Cive*, *De Jure Belli & Pacis*, and *Grounds of Obedience and Government*, much better in their Religion (if I conceive a right Notion of Religion, *viz.* That it is *Actus Divini cultus*, or the Publick worship and service of God, in an unity, form and communion) then their Writings shew them to be for Justice and Government. For though our *Author* be a Pretender to be of the Religion of the Church of *Rome*; yet it would trouble the greatest Critique of this Age to shew where the Religion of either of the other were to be found. And who but such men as these, would pin their faith upon the tales and fictions of Poets, before the most venerable and sacred Authority of Holy Scripture? Nor can the eldest of Poets writings be compared in antiquity with the Scriptures: For if it could,

Cur supra bellum Thebanum, & funera Trojæ,
Non alias, alii quoque res cecinêre Poetæ?

And the *Theban* and *Trojan* War hapned after the Year of the World 2750. The *Trojan* War about the time that *Jephthah* judged *Israel*; and the *Theban* War in that Age, or the Age immediately before. See *Helv.* and Sir *Walt. Raleigh Hist. World, lib. 2. cap. 13. sect. 7.*

For my part, if in washing off the *Fucus* with which these men have obscured the true causes of all

Society, and hath no colour of verisimilitude in it, the truth of all Humane, Christian, and Legal society may more clearly appear from their natural and genuine causes; I shall then not think my time and pains utterly lost, which otherwise I should.

If it be objected, that I have transgressed the bounds of Civility in these Observations upon Mr. *White*; and that such opposing is rather like to increase differences, then reconcile them: I answer, that if Mr. *White* (or at least to my understanding) had not propounded some base Faction or Interest, and not any Good intentions, to have been his end by this Discourse of the *Grounds of Obedience and Government*; Or if he would have been content to have made it his own case only, I should have been content to have taken no notice of it. But since he is not only content to prostitute all Virtue and Morality in himself; and not stay there, but make this publique, and all men who are not of his opinion, not to be * worthy the name of *Men*; sure it is rather to be expected he should be severely reprehended, and his absurdities so detected, that they may be avoided by other men, then to be hoped that ever he should be reclaimed from them.

*Gro. 16. end.

Note, neither *Grotius* nor our *Author* make any Government, but only *Monarchy*, to be dissolvible: For if the Supremacie be once vested in a many-headed-Beast, be it *Court* or *People*, then are they so sacred and inviolable, that neither of them have one word, in what causes they forfeit their Soveraignties. And though *Grotius* no where so defines the *People*, as any man may understand any thing by it;

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yet ſure by the People they mean (if they mean any thing) the Subjects of any Prince or State. Suppoſe therefore that the People may diſſolve Government, as oft as they ſee occaſion; yet if the People be *Unum quid*, made up of all the individual Subjects of any Prince, then muſt the depoſing of any Prince, if it be the act of the People, be the act of every individual Subject; which is a thing never done, nor will be unto the end of the world. All *Grotius*, and our *Authors* Neceſsities and Reaſons therefore for depoſing of Princes by the People, are meer Cantings, and invented only to nurſe up Factions in the World without end, until *Monarchy* or *Regal power* ſhould be extirpated in all the World.

Poſtſcript to the Reader.

THe Edition of *Bodin de Repub.* cited in theſe *Obſervations* and *Elements*, is that which was printed at *Lyons* 1586. and afterwards ſold at *Paris*.

The Edition of *Grotius de Jure Belli & Pacis*, here and hereafter cited, is that printed at *Amſterdam* by *John* and *Cornelius Blaeu*, 1642.

The Edition of Mr. *Hobbs* his Philoſophical Elements *de Cive*, here and hereafter cited, is that printed at *Amſterdam* 1647. by *L. Elzevirius*.

The *Grounds of Obedience and Government*, by *Tho. White* Gent. is the Second Edition corrected and amended by the Author, and printed by *J. Fleſher*, 1655.

Reader, I confeſs I have not always cited our Author *Tho. White* Gent. in his very words; but if I have wronged him in the Senſe, (there being ſo very little in the whole Treatiſe) I acknowledge it a crime unpardonable.

Generatio Animalium cited, is that printed at *Amſterdam* by *Lewis Elzevirius*, 1651.

By what means Men attain Arts and Sciences.

1. *Nihil est in intellectu, quod non prius fuerit in sensu*, saies the highest Philosopher, *Anal. Post.* 2. Since only Man is a reasonable Creature, and can by his reason attain to Knowledge, it will not be a superfluous undertaking, to endeavor to shew by what means Men attain to Knowledge; and what Reason is: And since that most excellent Philosopher Doctor *William Harvey* hath taken so much pains, and more subtilly and accurately disputed the manner and order of attaining Knowledge then any Man before him, wee will take him in our way. He saies there is no Knowledge innate in us from the opinion of *Aristotle*, &c. In the next Paragraph he saies, but from whence, and how this Knowledge comes to us. I do not think it will be unprofitable here to set down, as well, to the more perfect understanding of the generation of living Creatures, as also for the removing the doubt, which any Man might have deduced from the opinion of *Aristotle*, for he affirms that all learning and mental discipline is made from antecedent Knowledge; from whence it may seem to follow, either we have no Knowledge, or that it is born with us, which is dissentaneous to what was before.

Of Humane reason, and the manner of acquiring Knowledge from *Aristotle*, and Doctor *Harvies* opinion.

Pref. Gen. Anim.

Page 53.

Analyt. Post. Lib. 1. *th.* 1.

2. This doubt is afterwards loosed by *Aristotle* himself, where he teaches how Knowledge may be acquired; for after he had taught that all certain Knowledge is to be had from a syllogisme and demonstration, and had made manifest, that every demonstrative syllogisme is made up of prime and necessary principles, at length he enquireth, *Quomodo principia nota fiant, & quis sit notificans habitus*, inquirit; simul etiam, *utrum habitus, cum non insint, ingenerentur; an, cum inessent, laterent? Non habemus* (inquit) *eos habitus; accidit enim ut eos qui habent cognitiones exquisitoras demens ratione, lateant. Si vero eos accipimus, cum antea non haberemus, quomodo notum faceremus, & disceremus ex non antecedente cognitione? Perspicuum igitur est, neque haberi, nec in ignorantibus, ac nullo habitu præditis gigni posse. Quare necesse est facultatem quandam haberi, non tamen talem, qua his præstantior sit, tanquam exquisitior. Videtur autem hoc inesse omnibus animalibus; habent enim vim congenitam judicativam, quam appellant sensum. Cum autem sensus insit, in aliis animalibus, res sensu perceptæ manet, in aliis, non manet. In quibus igitur non manet; hæc aut omnino, aut eorum quæ non manent, cognitionem non habent, extra τὸ sentire: alia vero cum sentiunt, unam quid in anima retinent. Cum autem multa animalia hujusmodi sint, jam est discrimen quoddam;*

15. *Lib.* 2 *cap.* 18.

By the opinion of *Aristotle.*

adeo ut in aliis ratio fiat ex hujusmodi rerum memoria; in aliis, non fiat. Ex sensu igitur fit memoria, quemadmodum dicimus: ex memoria vero sæpe ejusdem rei facta, fit experientia. (multæ enim numero memoriæ, sunt una experientia.) At vero ex experientia, sive ex omni & universali quiescente in anima (nimirum uno præter multa, quod in omnibus illis inest unum & idem) fit principium artis, & scientiæ: artis si pertineat ad generationem; (viz. agenda, vel efficienda;) scientia, si pertineat ad id quod est (viz. cognitionem entis.) Itaque, nec insunt definiti habitus; nec fiunt ex aliis habitibus notioribus, sed ex sensu.

By the opinion of Dr. *Harvey*.

3. From which words of *Aristotle* it is cleerly manifest, by what order the Knowledge of every Art or Science is acquired, *viz.* from the sense the thing perceived remains still: from the permanency of the thing perceived, comes the memory: from the memory multiplied, experience: from experience, *ratio universalis, definitiones, & maxima sive axiomata communia, cognitionis certissima principia ex gr. Idem eidem, secundum idem, esse, & non esse, impossibile. Omnis affirmatio, vel negatio, aut vera est, aut falsa; & hujusmodi alia.*

Wherefore as we said before, there is no perfect Knowledge, which may be called ours, which is within us; unless by some means it does proceed from experiment made by us, and our sense; or at least, by these examined, proved, and firmly builded, it may appear above any pre-existent Knowledge in us. Because without memory there can be no experience, which is nothing else but multiplied memory: in like manner memory cannot be, without permanence of the thing perceived: and the thing perceived cannot remain in what it never was, &c.

Apology.

4. But *multi multa, nemo omnia vidit.* I do not think that all light of understanding was so shut up in *Aristotles* braine, that all things pronounced by him, are to be taken for granted Principles; yet do I entertain so venerable an opinion of *Aristotle*, that I do admire him, as the most eminent of all men, in all humane learning, among the Ancients; and not to be paralleld by any of the Moderns: but *inventis addere*, is one of the chiefest ends of Mans being; and there are yet, and so will be until the end of the World, many things received for truth, which upon more search will be found but verisimilitudes; and infinite things hidden from our Forefathers, which will be infinitely found out by the present and subsequent generation; that the Infinity of God may appear, as well to the present and subsequent age, as to the antecedent, in all his works.

All things were not in the senses, before they are in the understanding, according to the opinion of *Aristotle*, and the Doctor.

5. Well then, *Aristotle* saies, and the Doctor subscribes to it, that *Nihil est intellectu, quod non prius fuerit in sensu.* I deny that there is nothing in the understanding, which was not first in the senses: for there are many things intelligible, which are not sensible; as time does, every article of it, intelligibly pass away, not sensibly. I understand that the centre of a circle, is a point; and that a point, by the definition of it, *est cujus nulla pars est*; it cannot therefore according to the true definition of it, be so expressed, as to be the object of sense. So a right line is, *longitudo, latitudinis expers*; but neither a right line nor a point can be truly represented to the sense, according to the truth of them, as they arise in the understanding; and so two right, or supposed right lines, which are not parallel, cannot be infinitely produced according to sense, but they will cut one another; but intelligibly they may; for no Man can understand so small a quantity of distance, before the intersection, but I can understand

ſtand a ſmaller, and another ſmaller then that, and ſo *ad infinitum*; and ſo *Quantitas diviſibilis eſt in ſemper diviſibila, & poteſt infinitè augeri, & minui*; but this is only intelligibly, it cannot be actually or ſenſibly done; and ſo the *contactus* of a right line with a circle, is a point in the underſtanding, and not ſenſibly; and ſo is the touching of two circles, either within one another, or without. Nay, neither Art, Science, nor any rational production whatſoever *à priori*, but muſt neceſſarily be in the underſtanding before it can be in the ſenſes. I underſtand Animal to comprehend not only the Creatures I have ſeen, but all thoſe which are, were, or ever ſhall be; and ſo I underſtand things equal to a third thing, are equal to one another; yet nor I, nor any Man elſe ever ſaw two things equal to a third; and the whole body of Geometry is of all Sciences moſt intelligible, and yet abſtracted from all ſenſible matter.

No Art or Science ariſes from the Senſes and memory.

6. If it be true that both *Ariſtotle* and the Doctor affirm, that all Art and Science is acquired from the receiving a thing into the ſenſes, and that from the permanence of the thing in the ſenſe the memory is made; and from the multiplication of the memory, Experience; and from Experience, the Principles of all Art and Science, and that it be true which *Ariſtotle* ſaies, to which the Doctor ſubſcribes, *Fit ex memoriâ, experientia hominibus: multæ etenim ejuſdem rei memoriæ, unius experientiæ vim efficiunt. Quare experientia pene ſimile quid ſcientiæ ac arti eſſe videtur*; then does it moſt evidently and perſpicuouſly follow, that he that can longeſt retain things in his ſenſe, that is, hath the beſt memory, is the moſt ſcientifical, and moſt artificial Man: whereas we daily ſee that the Man that hath the greateſt memory, is uſually a very blockhead, and that he remembers almoſt all the things which are done and ſaid, yet cannot tell from what cauſe they did proceed, but only remembers the things. Nor will that which the Doctor ſaies, *Quippe ſine memoriâ, nulla fit experientia*, mend the matter: for as I do deny any Art or Science can proceed from the ſenſe, memory and experience; ſo do I not affirm that without the memory, any Art or Science can be made. I ſay no Art nor Science can ariſe from the apprehenſion of ſingulars into the ſenſe, and retaining of them there, and from experiment only. For Arts, and Sciences, are not things meerly apprehended, and received into the ſenſe, and ſo retained in memory, but ſomething elſe which is truly and rightly derived from thoſe things, which are univerſally true, and never before known to the ſenſes, or remembred.

Meta. l. 1. c. 1.

Nor from the underſtanding without the memory and ſenſes

7. And as all the particular ſtories and things in the world retained in the memory, cannot move one ſtep to the attaining of any Art or Science; ſo cannot the apprehenſion of univerſal cauſes in the underſtanding, of themſelves produce any thing in order to the attaining of any Art or Science. For univerſal cauſes in nature prove nothing, but as meeting particular cauſes, do determine thoſe, and ſpecifie their Acts. The truth of both theſe is eaſily and daily ſeen in Men, who are very dull, and yet of vaſt memories; who remember all things, but can ſcarcely be ever made to diſcourſe of, and underſtand any thing; and of Men that are too light, and phantaſtical, who only talke generally, without applying theſe generals to any particular. The one is like a Ship, which is overladen with Ballaſt, and not having Sailes proportionable, can ſcarcely be made to ſaile with any winde: the other is like a Ship which hath no Ballaſt, and ſo much ſaile, that ſhe is never in any ſteadineſs, but carried hither and thither upon every ſmall puff of

winde, the one will upon any discourse or ratiocination, be still absurdly telling particular stories, which he in his defect of understanding, supposes should be the universal and prime reason of the discourse: whereas the other from the lightness of his phantasie, and defect of memory, never applies his general notion, to any particular thing, and so concludes nothing.

Axiomes and Principles do not proceed from experiment,

8. Whereas *Aristotle* and the Doctor affirm, *that experiment proceeds from many memories, or memory multiplied, and that* ratio universalis, definitiones, &c. *proceed from experiment.* A Man may justly deny it, for it is not many things, or multiplied things, which can make *ratio universalis*; but *ratio universalis, axioma*, &c. is that which does not signify many things only, but every thing which is comprehended in the terms; and it is impossible that any Man should make experiment of all things, which are comprehended under one general Notion.

Nor Art and Sciences. *Met. lib. 1. c. 1. an finem.* (b) *Apud Plat. in Gorgia.*

9. *Aristotle* saies, *Per experientiam ars, & scientia hominibus efficitur, Experientia enim (ut recte ait Polus*[b]*) artem efficit, imperitia vero casum,* to which the Doctor subscribes, and saies, *there can be no prudent or truly knowing Man, which by his proper experiment, hath not throughly understood a thing to be so.* If this were universally true, then could no wise or prudent Man understand throughly any Law which forbids Theft or Murder upon the penalty of hanging; unless he should steale and commit Murder, and so be hanged for his pains: and for my part I will rather beleeve that if a Man puts his finger into the fire he will burn it; and that if he be long over head and ears in the water, he will drown himself, then make experiment thereby to be accounted a wise and prudent Man. Afterwards he saies, *From hence it is (viz.* for want of experience*) many pretenders to knowledge, and Sophisters cropping of the inventions of other Men, the same things every where (the order only, and words changed, and a few things of small moment added) do confidently challenge for their own; and render Philosophy, which ought to be certain and perspicuous) obscure, intricate, and confused.* It is true, that in all argumentation *a posteriori, viz.* from the effect to endeavor to find out the cause, there can be no direction without experiment; and therefore it is a very difficult, if not an impossible thing, that any Art, or Science, can be made from any conclusions in Philosophy which are drawn *a posteriori*, which at the best cannot arise to higher then probable, and opinonative, and can never be certain and perspicuous. And though the Doctor from his great parts and experiment in Anatomy, hath probably found out things never before received; yet cannot any of those conclusions ever attain to demonstrative certain and perspicuous conclusions: yet it does not hold true in argumentation *a priori*, that all things are known by experiment; but that infinite things are known and understood, which are abstracted from matter and experiment, and are easily understood by any Man without experiment.

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Man is not naturally without all Knowledge.

10. Nor is it true universally, *that there is no knowledge innate in Man*; for the Laws of Nature are innate and connatural with Man; and not acquired either by sense, experiment, or any thing else.

The manner and order of attaining to Knowledge, is a subtil disquisition.

11. As I have said before, so do I say again, that there is no Age that hath not received many things for truths, which the next generation upon further inquiry, and looking into them, have found to be but verisimilitudes: and that from things found out, infinite productions will be made as long as the world indures: and as it is not fair play to carp at anothers opinion

and,

and not to set down his own, and give a reason for it. So will it be meer levity to contest with another, if not upon superior Grounds; and he that shall contest with so great a Philosopher, as *Aristotle*, in a thing so long received, and uncontroverted, had need take great heed, and have his wits about him, least instead of evicting his adversary, he only acquires the repute of a light and fooliſh Man; But least we should skip short for want of taking our run far enough back, we will begin at the beginning of all things.

12. As I am a Christian, and therefore by the First *Chap. Gen.* ought *to beleeve, that God made Heaven and Earth, Man and all other Creatures*; so if I had not received Gods divine revelation of himself in the Scriptures, yet should I never have been a Peripatetick, or Aristotelian, who held that not only the world, but the species of all things in it, were from all eternity. For there was either one first being, the true, prime, and efficient cause of all things else, or two, or more first beings, or no first being, but all things were originally from themselves: but the two latter are most manifestly absurd and contrary to sense and reason; for *unitas est, secundum quam unumquodque eorum, quæ sunt, unum dicitur*; but the first is one thing; it is therefore impossible there should be two firsts or more; nor is it less absurd to suppose all things to have been from eternity, and so not to have proceeded from one superior being, but had their being from themselves; for if all things had from all eternity a power and being of themselves; then might they have infinitely continued their being in their individuals, and we see that every thing does naturally desire the preservation of its self; but this is most manifestly false, for we see all things are in their individuals resoluble into their first composition, and perpetuated by generation in their species; there is therefore but one first being of all things (except sin, which is contrary to the nature and essence of God, who is all good) which is God.

There is but one first Entity, and that is God.

13. All things were either originally generated of their like, or from themselves, or created by God. But nothing could generate any thing like it self before it was; and by the precedent proposition, no Creature could have its original being from its self. All things therefore in the beginning were created by God, and are his Creatures.

God in the beginning created all things.

14. It is true, that the Scriptures do not observe an exact method in relating all actions according as they were done in time; but it is very probable that *Adam* at his first Creation gave names to all Creatures, *Gen.* 2.20. But whether it were at *Adams* first Creation or not, yet could not *Adams* speech and defining all Gods Creatures, be from any acquired habit, because there was no Creature with whom he might converse and beget this habit, (*Eve* not being then made) nor did *Adam* only give names to Creatures, but did discourse Rationally, and give the Etymology of Woman, when he first saw her. Man therefore was created an intelligible and Rational Creature, actually.

Man was created in his perfection, and an intelligible, and rational creature actually.

Gen. 2. 23. 24.

15. Although Man were created a most perfect, Rational, and Intelligible Creature; yet we see, that he is not only born actually void of understanding and reason; but also the most impotent of all Creatures. For all viviparal Creatures (although born blind privitively) yet in their very first production find a way to their dams papps from whence they suck and receive nourishment; whereas Man of a long time after his birth (so long time, that many other Creatures in less time attain to their perfection) is unable to receive any nourishment, but as he is directed by others. And all oviparal Creatures without any help,

Man. of all creatures is born the most impotent.

receive that food which their Parents bring them; and all Creatures which are generated *per metamorphosin*, are at their first being as perfect as ever after.

Wherein Man and other more perfect creatures do resemble one another.

16. I understand by *Animalia perfectiora*, or more perfect Creatures, those who are generated and produced from univocal generation or production, that is, from the coition of male and female of the same species, Man, and all more perfect creatures, are born with all the five senses of Hearing, Seeing, Smelling, Tasting, and Feeling; and also with Will, Memory, and Phantasie. And though by reason of Creatures natural impotency, at their first production, these three latter are not so perspicuous, as to be perceived by them who do not carefully mind them; yet it is evident enough to those, who more narrowly observe them: For there is no Creature, at their very first production, which either of themselves, or apted and disposed to receive food, but do receive it, (if it hath no natural defect or sickness) which it could not do without Will: And all Creatures know, and can distinguish the lowing, bleating, barking, and voice &c. of their Dams, or those that feed them, from others of the same kind; which could not be without Memory: And not only Children in their cradles will (excited by others) laugh and be pleasant, but also of themselves will many times express much pleasure in their faces; but also Lambs, Colts, Calves, &c. will be playing with one another, all which no doubt proceeds from some pleasure which they fancie. They have moreover at their first being, the passions of Love, Fear, Hate, &c. which is so evidently seen in all Creatures, that there needs no example. And truly I think it very probable, that it is from Fear, that every Child cries, upon his being born, apprehending danger from those various new things it never saw before.

Wherein Man is different from other creatures, and more excellent.

17. Although other Creatures have in their first being, as well as Man, all those Senses that Man hath, and have moreover Will, Phantasie, and Memory; yet are their actions determined by their objects, when they are not overruled by fear; nor in process of time do they ever attain to be intelligible or rational Creatures. It is worth the observation, that while Man does in some sort attain to speech, understanding, and reason, he can either not go, or else goes upon his hands and feet, with his face prone to the earth, as if there were no difference between him and other Creatures; whereas when he but begins to speak, and can in any sort observe the commands of his Parents, he then begins to look up to Heaven as a more excellent Creature, and that from thence he expects beatitude, and is to be thankful therefore. And though other Creatures have Phantasie as well as Men, yet cannot they phancie any object from their Senses so intelligibly, as to define it to be such a thing in all the parts of it, excluding every thing else. Nor can they by the help of their Memory and Phantasie, ever draw one Conclusion from any thing they ever saw, and phancied.

What is the Will, according to the Schools.

18. *Estius* in *Distinct.* 17. of the 3. Book of his *Comment of the Sentences*, *p.* 49. *sect.* 2. acknowledgeth a twofold will in Christ according to humane nature; one rational, which is proper to man, conformable to the Understanding; the other sensual, and is called Sensuality, and common to all living creatures, conforming to the Sense. And although only the rational appetite be properly called the Will, yet sometime the name of Will is attri-

attributed to the ſenſual appetite. As *Joh.* 1. & *Epheſ.* 2. *Voluntas carnis dominatur.* And *Proſper* in the firſt book *de voc. Gent. cap.* 2. beſides the rational will, acknowledgeth a ſenſual will: So writing: *Senſualis voluntas, quam & carnalem poſſumus dicere, non erigitur ſupra eum motum, qui de corporis ſenſibus naſcitur: qualis eſt in animis parvulorum, qui licet nullo judicio utantur, oſtendunt tamen aliquid ſe velli, cum ſentiendo & ea quibus delectantur amant, & ea quibus offenduntur oderunt.* And afterwards from the places of Scripture which teſtifie our Saviours grief, ſorrow, and fear; theſe paſſions being ſenſitive, do ſufficiently convince that there was a ſenſual will in Chriſt. In *lib.* 2. *diſtinct.* 6. *pag.* 51. *a.* he from *Scotus* diſtinguiſheth a two-fold will, abſolute, and conditional; or *voluntas efficax, & complacentiæ. Voluntas complacentiæ,* is that will, by which men deſire what they cannot attain to; as when who is ſick, deſireth health, when it is not poſſible to attain to it. *Voluntas efficax,* is that, which by ſuch means attains the end. And *lib.* 2. *diſt.* 24. *pag.* 261. he ſays truly, *Voluntas cogi non poteſt.*

If *Appetitus ſenſualis* be the Will, then is the Will compulſible; for not only the Appetite, but all the outward Senſes are patient, and therefore compellible; which is contrary to what he affirms, that *Voluntas cogi non poteſt.* Rejected.

If *Appetitus rationalis* be the Will, then are thoſe actions for which no reaſon can be given, of Anger, Deſire, and of all Children, unwilling actions; which *Ariſtotle Eth. l.* 3. *c.* 3. juſtly derides as moſt ridiculous and abſurd. Beſides, *Appetitus rationalis* are terms incompatible; for neither Man, nor any creature, does *appetere rationaliter,* but *naturaliter.* Mr. *Hobbs* makes *Appetitus rationalis* to be the Will, too.

19. *Ariſtotle l.* 3. *c.* 3. *Eth.* makes the Will the τὸ ἐκούσιον, to be that principle or beginning in him, who does not ignorantly thoſe ſingular things in which any action conſiſts. And that therefore Children, and other creatures void of reaſon and underſtanding, have will, and do things ſpontaneouſly. What is the Will, the τὸ ἐκούσιον, by the authority of *Ariſtotle*, in creatures void of reaſon.

20. Counſel, in *cap.* 4. *&* 6. *lib.* 3. *Eth.* he makes to be neither *Cupiditas, Ira, Voluntas,* or any Opinion. *Voluntas* he makes to be of the laſt or end of Counſel; and Counſel to be of thoſe things which may be done by us; as a man wills to be well, he takes counſel how to attain to health. And he is a fool, that takes counſel of thoſe things he cannot do. Yet a man may will things which cannot be, as to be immortal; or thoſe things which he cannot do, as if a man would have a Player, or Wraſtler ſtronger then himſelf, to depart. But this Definition, if it be any, is ſo perplext and confuſed, as it is not poſſible a man ſhould definitely underſtand any thing by it: For if the Will be the end or termination of Counſel, then all thoſe actions which do not proceed from Counſel, are not voluntary. But he makes the Will to be of thoſe things, of which we cannot take Counſel. So that he does not only confound *Appetitus, Cupiditas, & Voluntas,* but makes *Voluntas* to be contrary to its ſelf. What is the *Voluntas*, Will, or προαίρεσις, by the authority of *Ariſtotle.*

21. The Will is that Faculty, Empire, or Dominion of the Soul, which does not ignorantly imperate, or forbid any action or motion which is not natural. I ſay not ignorantly: for thoſe actions which oppreſs men by diſordered dreams, or by the *Incubus,* or (as we ſay) the Night-mare, are not acts of the will. Nor muſt they be natural, as is the *Syſtole* and *Diaſtole* of the Heart and Blood, or of the Brain, which is natural, and not in our power What is the Will.

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to alter. But though the Will cannot forbid the Brain or Phantasie from working, yet can it imperate the Phantasie what things it shall phancie or meditate.

Another definition of the will.

22. In every action three things are to be considered, *viz.* the *internum movens*, the *externum agens*, and the end or *ratio finalis* of the action. The *internum movens* is the will, the prime and efficient cause; the *externum movens*, the mean or instrumental cause; the *ratio finalis* or end for which such an action is done, is that which discerns the action to be good or bad, just or unjust. If the end of the action be to attain any thing which the understanding or reason dictates, then is such an action the act of the mind, which is proper only to intellectual and reasonable Creatures. If it be to attain something desired or feared, and for which no reason can be given, then is it common to all living Creatures as well as Man.

Another definition of the will.

By *Appetitus*, I mean all sensual desires of self-love, lust, revenge, &c.

23. Or thirdly, the Will is that faculty of the soule which does elect or reject the doing of things appearing just or unjust, desired or not desired, prudent or imprudent. So that *voluntas* is one thing, and *appetitus*, or *cupiditas* is another thing; and so *velle* is one thing, and *intelligere* another. For *appetitus* or *cupiditas*, are natural and not in the power of the will; but the doing or not doing of any thing, to the attaining of things coveted or desired, is in the power of the will, and so many Men do understand many things to be good for them, who do nothing to the attaining of them, *viz.* many Men are sapient, not prudent. Thus we see that all Men do understand and desire happiness, but all Men do not will, *viz.* do things in order to the attaining of happiness.

A fourth definition.

24. Or lastly, I am content with *Aristotles* definition of the will, *Eth.* 3. *cap.* 4. *&* 6. That it is the ultimate resolution, end, or determination of counsel; but it is not only so, but the ultimate resolution of those acts, ends, or determinations of passions, irascible, concupiscible, or fearful, of Creatures not mad, but knowingly doing them. The natural passions therefore of concupiscence, appetite, anger, or fear, are no sins, because it is not in the power of Man to avoid them; but the assenting to them, either by complacency of cogitation, or by determining or resolving to do any thing in order thereunto, is a sin; and this the Poet by the help of humane nature only, saw:

Juv. Sat. 14. *Nam scelus intra se tacitum qui cogitat ullum,*
Facti crimen habet.

The will in reasonable Creatures illustrated by an example.

25. The Council of a Prince are divided and propound several things to him; the Prince who is the will, assents to, or elects the advice of one part, and rejects the other; the passions or affections to propound such a thing to the will, to be done or not done, because desired or feared; the understanding and reason, judges the doing or not doing such a thing, to be unreasonable or unjust. Here a Man may see, the understanding, the appetite, and fear, but not the will, until something be assented to, as understood to be good or bad; or desired, as pleasant, or profitable, or feared. So that the reason and understanding is one thing, and the affections and fears other things, and the will different from them all.

Creatures irrational have a will.

26. The *internum movens*, being the will in all actions not natural, nor ignorant, all those outward actions of all Creatures must necessarily proceed from the will, or *internum movens* in them.

27. Not

27. Not onely *appetitus* but *ſenſus*, are patient and natural in all Creatures; if therefore *appetitus ſenſualis* be the will in irrational Creatures, then could not theſe Creatures do any thing, but firſt moved thereunto by their ſenſual appetite; but the contrary hereof every man ſees. *Trajan* had a Horſe given him in *Perſia*, who, at firſt ſight of the Emperor, fell upon his knees. It is almoſt incredible thoſe things which *Banks* his Horſe did, and yet none of them from any ſenſual appetite. Thus we ſee all irrational Creatures may be taught and habituated to thoſe things which naturally they have no appetite unto, nor moved by any outward object: As Horſes are ridden, and learned to amble, whereas naturally all four-footed Creatures trot; yet have they naturally no appetite thereunto, nor moved by any outward object, but on the contrary are averſe from them.

Appetitus ſenſualis, is not the Will in Creatures irrational.

28. Creatures void of Underſtanding and Reaſon, have theſe two Paſſions to inform their Will, *viz. appetitus & timor*; and that they take information from both theſe, is evident to any man; for there is no Creature that purſues any Appetition, but apprehending danger forbears it. It is obſerved of the Fox, that whenſoever hunted to ground, he never comes out, but at the mouth of the Burrow, he lies and vents a while, and afterwards for ſome ſpace, runs directly into the wind; and if he vents any thing which cauſes fear, returns to ground again. Having been much addicted to hunt the Fox, I have obſerved that many times, when the Fox hath been hunted to ground, and watched to be taken, he hath not come out further then the mouth of the Burrow, if he vented the watcher, (who therefore lies down the wind,) and hath continued ſometime five or ſix nights in the ground, until he hath been almoſt ſtarved; whereas at no time, if he were not watched, but he came out that night. And after they were taken, they would not of a long time eat in ſight of any man, how hungry ſoever, until they became ſo habituated to men, that they apprehended no danger from them. So Deer do naturally deſire to eat Apples, but if approaching, they vent them to have been handled by man, they forſake them, and flee away affrighted: And ſo all other Creatures, upon apprehenſion of danger, ceaſe to purſue their appetite. Thus we ſee in Creatures irrational among themſelves, when they rage moſt in their luſt and appetite, yet give way to them by whom they are overcome. And from hence it is, I conceive, that irrational Creatures are not onely reclaimed from their natural fierceneſs, but are taught to do thoſe things which they have no appetite or natural inclination to, by cunningly inſinuating danger to them upon their not doing them; and that this muſt be done by inſinuation and cunning, and not by outward force onely, is evident; for the moſt furious and robuſt man is not the beſt horſe-breaker and pacer.

Irrational Creatures have Election in their Actions.

29. *Ariſtotle, Eth. Lib. 3. Cap. 7.* makes Virtue and Vice to be ſited in the power of Man, and therefore that Legiſlators may juſtly puniſh Vices and reward Virtues; and that all exhortation to Virtue, and dehortation from Vice, were vain and ridiculous, if it were not in the power of Man: Yet truly I am rather of *Plato*'s opinion, who makes Virtue to be from a higher cauſe then is in Man. For though I do aſſent to *Ariſtotle*, that all puniſhment for diſobeying or tranſgreſſing Laws, and Exhortation thereunto, were vain and ridiculous, if it were not in our power to do them; yet is it not the doing, or not doing of things commanded or forbidden by them who have a right to command or forbid them, a Virtue; but the doing or not

Man is a free Lord of all his Actions.

Meno.

not doing them in such a formality as they are so commanded or forbidden, which makes them virtues; which must needs proceed from a higher cause then is in man, or can be taught him. As if a Prince commands another to do something which he ought to do, he does it; but takes a reward or bribe from another to do it: I say, this is not virtue in the Agent, because he did it not as commanded, but bribed: Whereas another does his duty without reward, and it may be to his much temporal detriment; this is virtue, and must needs be from some higher cause, then is to be found ordinarily in men.

What is the Minde, and whether to be found in Creatures irrational?

30. All Creatures have Souls, but not Mindes: Other living Creatures, as well as Men, have vegetative Souls. The Minde is sometime taken for the Will, rightly informed from the Understanding and Reason, *Plato (Meno.)* Sometime for the Understanding, *Arist. Eth. lib. 6. c. 6.* Sometime for Reason or Counsel, as we say oft times, My minde gives me that such a thing is, or is not. And *Virgil. Ænead.*

Nostram nunc accipe mentem.

In each sense, this is proper onely to intellectual and rational Creatures. *Aristotle, Pol. lib. 1. cap. 5.* makes the *animus* or vegetative Soul to have dominion over the body of a Man, or other Creature, as a Master of a Family over his Servants, who is notwithstanding commanded, and in the power of the King or *Civitas*; but the Minde or the Will informed from the Understanding and Reason, to have the dominion, not onely over the body, but also over the sensual or vegetative Soul, as a King or *Civitas* hath over the Masters of Families.

Mans Actions are more free then other Creatures void of reason.

31. Man therefore being endowed not onely with a vegetative Soul, which is common to all Creatures, as well as Man, but with a minde superior to it; his actions are so much more free then other Creatures, by how much more liberty he hath to make election; but other Creatures actions can take information onely from their appetites and fears, whereas a Man in all his actions may consult and take information from his Understanding and Reason.

Onely Mans Actions are sinful.

32. Sin is an omission or transgression of some Law; but unreasonable Creatures, not having any other Law then their appetite and fear, and their actions being always conformable to them, they never sin. But man does not always conform his actions to what he understands to be just, and forbears those things which he understands, and his Reason tells him he ought not to do: Therefore onely Mans actions are sinful.

What are Actions, and not voluntary.

33. It is true, that *Aristotle* says, *That the minde of Man hath the dominion of all his actions, and passions, as a King or* Civitas *hath over his subjects:* Yet many times the King cannot restrain the disorders of his Subjects, nor the minde always the passions of a man. And there is a Knowledge in irrational Creatures; *as the Ox knows his owner, and the Ass his Masters Crib*; and the whole body of them is but the organ or instrument of their vegetative Soul. And there is mad Dogs and Horses, as well as men; where therefore madness so far seizes upon Men or other Creatures, as they know not what they do, such actions are not voluntary. Nor is this onely in men frantick, and not *compotes mentium*, but oftentimes in men well disposed; as excess of grief, or joy, many times transports them into sudden and violent motions, or actions, which is not in their power to restrain: But these actions being ignorantly done, by the definition, are not voluntarily done; and by consequence, not sinful.

34. Memory

34. Memory is that faculty of the ſoul in living creatures, which retains the Idea's of thoſe objects they have received into their ſenſes, when the things ſo received are removed from the ſenſes. And that all creatures as well as Man have Memory, is moſt evidently ſeen in all creatures, which can diſtinguiſh the voice of them that feed them from others of the ſame kind, and do more eaſily diſcern them, then men do another; which were impoſſible, without Memory. Any Dog, Horſe, Cow, or any other irrational creature, knows his Keepers voice from any other mans: Let a Dog be carried an hundred miles from a place, and if he loſes his Maſter, and be not reſtrained before he be well acquainted, he ſhall return home the ſame way he came. Nay, no queſtion but that the outward ſenſes of irrational creatures are much more exquiſite then mens; and are much more prone in their will, and more ſubtle in their phantaſie to attain thoſe things which are pleaſant and natural to them, and do much better remember thoſe things they have received by their ſenſes.

What is the Memory.

If *Ariſtotle* had ſaid, there is nothing in the memory which was not before in the ſenſes, I ſhould have aſſented to it. I do much wonder, *Ariſtotle* and the Doctor ſhould affirm that experience is ſubſequent to memory, and is from multiplied memory; whereas it is impoſſible but that experiment muſt firſt be in the ſenſes, and antecedent to the memory. And whereas they ſay, that experience is from multiplied memory; A man may burn his fingers upon once trial, as well as ofner.

Annot. By this Propoſition it is evidently falſe which * *Ariſtotle* ſays, *In aliis animalibus res percepta manet, in aliis non manet.* And if it be true that he ſays a little after, *Ex ſenſu fit memoria, & ex memoria experientia, & experientia principium artis & ſcientiæ*; then are all irrational Creatures better apted and diſpoſed to apprehend the Principles of all Arts and Sciences, then Men: for no queſtion but the ſenſes of irrational Creatures are much more ſubtile and exquiſite then in Men. And by his poſition, of Memory being from the Senſe, and Experiment from Memory, he makes all Creatures to be as ſcientifical and artificial as Men; where he ſays, that *Experientia pene ſimile quid ſcientiæ, ac arti eſſe videtur, &c.* And whereas * Dr. *Harvey* ſays, *pag.27. de Gen. Anim.* that *ex ſenſu permanet ſenſatum, ex permanentia ſenſati fit memoria:* I would know in which of the ſenſes is this *permanens?* It cannot be in any of the outward ſenſes; for it is a contradiction for any man to ſay, he remembers any thing he preſently and actually ſees, feels, taſtes, hears, or ſmells: It muſt be therefore, that this *permanens* of the thing perceived, is retained by the Common ſenſe (*viz.* of the Phantaſie or Underſtanding) which is a confounding of two faculties of the ſoul (*viz.* of the Memory, and Phantaſie or Underſtanding) in one, *viz.* the Common ſenſe, or Underſtanding. And this the Doctor plainly confeſſes, where he ſays, *Quod in ipſa viſione, ſive actu videndi, ſingulare, clarum, & diſtinctum erat; id ipſum mox remoto viſibili (clauſis nimirum oculis) in phantaſia abſtractum, vel in memoria reſervatum, obſcurum & indiſtinctum appareret, &c.*

*Anal.poſt.16. lib.2.cap.ult. Meta. l.1.c.1.

*De gen.anim. pag.21.

35. The Underſtanding is that faculty of the ſoul, which apprehends univerſal and prime cauſes, for which no reaſon can be given; and does phancy things true and falſe, juſt and unjuſt; and diſcerns and judges not only of things repreſented to the outward ſenſes, but alſo of things retained in the memory. And as the Underſtanding does apprehend univerſal notions in the abſtract, without the reaſon, and for which no reaſon can be given; ſo does it alſo thoſe things which are rightly deduced from them by reaſon.

What is the Underſtanding.

36. Thoſe things are Principles, which conſtitute Ratiocination, and for which no Reaſon can be given. *Eth. lib.6.cap.3.* Nothing can be Prime or Principle, but to that faculty of the Soul ſenſitive or intellectual, which does firſt apprehend it. For if there be any thing in the Underſtanding,

All things in the Underſtanding were not firſt in the Senſes, by the authority of *Ariſtotle.*

which was before in the Senſes, this cannot be a Principle to the Underſtanding, but to the Senſe, which did firſt apprehend it: As if I ſay, I know ſuch a thing is true, becauſe I ſaw it; this thing is not a Principle to the Underſtanding, but the Senſe, which did firſt apprehend it. But no man will ask a reaſon of the Senſe, *viz.* why I ſaw ſuch a thing? for it is abſurd, and no reaſon can be given of it, becauſe it was firſt repreſented to the Senſe. But *Ariſt. l. 6. c. 6. Eth. Mens, ſive intellectus ſit principiorum ſcientiarum.* All things therefore which are in the Underſtanding, by the authority of *Ariſtotle*, were not firſt in the Senſes.

There is nothing in the underſtanding which was firſt in the ſenſes.

37. I know this will at firſt bluſh ſeem a ſtrange Paradox; yet narrowly looked into, is as true as any Propoſition in Geometry: For the outward Senſes apprehend only the corporiety or ſubſtance of things repreſented unto them; but the Underſtanding only the incorporiety of things ſo ſeen, &c. and diſcerns and judges whether ſuch things ſo apprehended by the Senſes, be pleaſant, profitable, juſt or unjuſt, reaſonable or unreaſonable, commenſurable, or incommenſurable. Nor is the Idea of any thing thus ſeen, heard, or felt, ever after it be removed out of the ſight, retained in the Underſtanding, but Memory; where the Underſtanding diſcerns and judges, what before was in the Senſes. As if I ſee ſuch a ſolid body, the Underſtanding judgeth whether this body be commenſurable or not, by any notion or propoſition before underſtood: This body afterwards removed, and the Idea or form retained in the Memory, the Underſtanding diſcerns and judges the paſſions of it ſo retained, which before it did in the outward ſenſes. So I hear ſuch a ſtory told of things before done; afterward the ſound is paſt, and the ſtory retained in the Memory; the Underſtanding there judges and phancies it. Only things corporeal and ſubſtantial therefore being the objects of the outward Senſe, and things incorporeal and without ſubſtance the objects of the Underſtanding, there can nothing be in the Underſtanding, which was firſt in the Senſes. It is therefore abſurd for any man to ſay, he underſtands that ſuch a man hath ſuch a hand, or face, or did ſuch an action; becauſe being corporeal and the objects of the Senſe, they cannot be in the Underſtanding, but Memory. He therefore remembers ſuch a man had ſuch a face, or hand, or did ſuch an action. But he may moſt properly ſay, he underſtands ſuch a face, or hand, to be good or handſom; or that ſuch an action was good or bad: becauſe theſe things being incorporeal, cannot be apprehended by the outward Senſes, but judged or phancied to be ſo by the Underſtanding.

There is nothing judged or diſcerned in the ſenſes or memory, which was not before in the underſtanding.

38. If it be true which *Ariſtotle* and all Philoſophers affirm, that there cannot be any effect but from ſome efficient cauſe, nor act without an agent; then is it not poſſible but that which is in the underſtanding, and does judge, diſcern and phancie, is ſuperior, and muſt precede every thing which is ſo judged, diſcerned and phancied in the memory or ſenſes. All things therefore are ſo far from being in the ſenſes, before they were in the underſtanding, that it is not only impoſſible that any thing which was in the ſenſe, ſhould be in the underſtanding; but alſo that which is in the underſtanding, muſt be, before it can judge, diſcern, or phancie any thing, in the memory or ſenſes: And by conſequence, no Art nor Science can be learned or taught another, who does not firſt underſtand the Principles thereof; nor is it poſſible that the Principles of any Art or Science can

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be taught. I know it is usual for men to confound the sense with the understanding: As when a man talks unconclusively, they say he talks not sense, (yet it may be he speaks very loud) that is truly, he talks not understandingly, or not to be understood.

39. By the authority of *Aristotle, Eth. lib. 6. cap. 6.* the Understanding does apprehend things either abstractly, or concretely. Abstractly without the Reason, as Principles, for which no Reason can be given; or concretely with the Reason, as when by the Reason it apprehends things deduced from such Principles before understood, and for which no reason can be given; for *Intellectus sit principiorum, Scientia verò cum ratione conjuncta.* The understanding therefore of prime and universal causes, for which no reason can be given, can be nothing else but *radius divini luminis in animabus hominum*; and by consequence it cannot be learned, taught, or communicated by any Creature, or all the Creatures in the world.

The Understanding is a ray of Divine light in the soul of man.

40. Only Man, of all Creatures of this world, understanding prime, necessary, and universal causes, and phancying things true and false, just and unjust, only Man is an Intellectual creature.

Only Man, of all the creatures of this inferior orb, is an Intellectual creature.

41. *I. Principles, by the authority of *Aristotle, Eth. lib. 6. cap. 3.* are those things which are known to an Intellectual creature, which do constitute Ratiocination, and of which no reason can be given; and *(cap. 6.)* are apprehended only by the Mind or Intellect. Such are the Principles of Geometry; and such are *Idem, eidem, secundum idem, esse, & non esse, impossibile; &, Omnis affirmatio aut negatio, aut vera aut falsa; &, Cujus est nolle, ejus est velle, &c.*

*What things are Principles.

II. Man not being only an Intellectual, but a Sociable creature, God hath engraven in the minds of all men certain Laws for which no reason can be given, to which they ought to conform all their actions, for the preservation of peace and society among men.

III. But because the Laws of Nature oftentimes only are *ex Thesi*, there must be some things *ex Hypothesi*, which must be understood; and these must be prime and superior to them to whom they are given, and for which they can give no reason, or they cannot be the rule and reason of their actions. I require Humane and Despotical Laws for Principles, to those who by right or due are subject to them.

IV. But God having made Man not only intellectual, rational, and sociable, but endued him with an immortal soul capable of eternal happiness, He hath extraordinarily and supernaturally revealed himself in the Scriptures, that men submitting themselves and their Reasons to those Divine precepts, might *work out their salvation with fear and trembling.* But if it be asked, How shall I know the Scriptures to be Gods Word, since they are not known to be so by the understanding, nor outward sense? I would ask that man, if he be a Christian, how he came to be so? For his being a Christian, implies his belief in them as the Word of God; and he is required no more: And if the power and grace of God were not as much shewed in converting the world to Christianity by the preaching of a company of poor Fishermen (all Temporal powers persecuting and contradicting it) as in all the Miracles of old under the Prophets and Patriarchs? And whether the power and grace of God in his Son, was not more visible under the New, then in the Prophets, and under the Old Law?

But because the Laws or Precepts of God in the Scripture command

1 Cor. 14. 40. 1 Tim. 2.

many things *in Thesi* only, (as, *Let all things be done decently and in order*; and, *Let prayers and supplications be made for all men, &c.* But this Decencie and Order is no where prescribed or defined by the Scripture) and the Church (to whom the right of defining such things, is given by God) *ex Hypothesi*: the Laws therefore of Church or Ecclesiastical Laws, are principles, and necessary for conservation of Christian society.

I require only Humane, Ecclesiastical and Despotical Laws for principles, which do not immediately proceed from God. All other principles whatsoever proceed, or are immediately created only by God alone.

No Laws create any obligation in conscience from any thing, which was in the senses.

42. All Men understand that they ought to obey the Laws of their superiors. But by the 37. Proposition, there is nothing in the understanding which was in the senses. Mens Obedience therefore, or their obligation in conscience to the Laws of their superiors, is not from any thing which was in the senses, But it does proceed from the connatural Laws of Nature, engraven by God in the minds or understandings of Men, or from his Grace supernaturally given to Men; and by consequence, those men who do not from innate good principles, their duty in conscience, will never from any thing feared or received into the senses, be it Whipping, Branding, or Hanging, ever be made good, but only deterred from being bad.

What is Belief.

43. Belief is the assenting to a thing to be true or false, not as either known to the understanding or outward senses, but as affirmed or denied by one or more, who are credible persons.

What is Faith.

44. Faith is the assenting to a thing to be true or false, not as known to the understanding or outward senses, but as commanded or forbidden by God extraordinarily, and supernaturally.

Whether things only credible, may be as certain as known to the senses, and incidently of the divine excellency of truth above any sensible knowledge.

45. It is an admirable thing to consider the providence of God (who is the God of truth) in the preservation of those things, which impartially relate the actions of Men, and the revolutions which have hapned in the world. Nor is it any more then a just and equal testimony *Polybius* in the Proem of his History gives of Truth, *viz.* that she ought to be esteemed as the greatest goddess; and that the greatest power ought to be ascribed to her, overcoming and triumphing over all the oppositions of Men, and verisimilitudes. Nor can any reason be given that *Polybius*, *Livy*, *Plutarch*, &c. did either write such Histories, or that such Histories written by them, were truer then those which are lost and rejected by Men, but only a kind of divine ayre informing Men of their truth; whereas those books which are falsely and factiously written, are exploded and neglected in a very short time; and yet whether they were truly or falsely written, few or no Men can judge from any thing known to the outward sence. I say few or no Man can so judge of them; for in that time when they were written, there were many more false and factious Historians to delude Men, then true and just to inform them. Nor can Men in subsequent generations from any thing in their outward sences, judge or discern whether any thing they record be true or false. Nay further, no Historian (except *Cæsar* and *Xenophon*, and some very few others, who recorded infinitely more things not known, then known to them to be true) did ever know whether what he recorded were true or not. To evidence this yet more fully, there was scarcely (except *Cæsars* & *Xenophons*) ever any History truly written in those times, wherein the things were done, that men might take information from their outward senses; but Men were so carried by Faction or Interest, that in

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recording of things, they record things not as true or false, but as advancing their Faction and Interest: whereas Men in the subsequent generation not having those Passions and Appetitions, nor any sense of these things; subjecting all their Passions and Affections, as it were assisted by a divine Election, do make Election of those things which are true, and reject others, which the Malice or Faction of Men had imposed upon the World. And a Man is as certain that there have been such Men as *Cæsar*, *Hanibal*, *Alexander*, *&c.* and as assured of their Actions, as if he had seen them.

Faith is an extraordinary Gift of God.

46. Since all things which proceed from God immediately, and for which no reason can be given by any Creature, may be justly required for principles by intellectual and reasonable Creatures; and since the Scriptures proceed immediately from God, or they could not be the Word of God, are therefore the principles of Faith. And since there is nothing within man naturally, which may assure him, that those things revealed in Scripture were Gods *Revelation*; it does necessarily follow, That Faith, or the Belief of God in the Scriptures, is Gods gift supernaturally and extraordinarily. Nor can all the Arguments of Tradition, Church, Excellency of stile, Truth, *&c.* move one stone to the proof of them: For they were the Word of God, before any Church or Tradition, *&c.* was. And if they had not been the Word of God before the Church received them, and delivered them to posterity; their Reception and Tradition could never have made them so. Besides, the Church having its being from the Scriptures, it can never prove the cause of its being. And what was it less, then the power and grace of God extraordinarily given to *Moses*, That the Bush burned and was not consumed? And of all the miracles done by him, and the other Prophets; and more then those, done by our Saviour, and the Apostles, and blessed Martyrs since? And that by the Preaching of a few Fishermen, against all the Temporal Powers in the World, Christianity should be propagated generally over the face of the Earth; and that I without any thing in me, or desert of mine, am baptised into this Faith? And he that shall dispute the truth of the grace and power of God in the *Old* and *New Testament*, and since recorded in Ecclesiastical and Prophane History, ought as much to be confuted with clubs and hissing, as he that denies or disputes his Principles in any Art or Science.

All Principles are prime and necessary, either *necessitate absoluta*, or *necessitate medii*.

47. All Principles are true or false, just or unjust, good or bad; either *necessitate absoluta*, or *necessitate medii*. Principles that are true or false, *necessitate absoluta*, are so, that they are immutable by God himself, as that two and two added, should not make four; or that things equal to the same thing, should not be equal to one another; or that any being should be superior to the cause of its being; or that contradictions should be true; or else true or false, good or bad, just or unjust, *necessitate ex hypothesi*: And these though they are necessary and principles to those to whom they are given, and immutable by them; yet are they not principles and necessary to them, who made and gave them. As the Laws of Nature, and Gods revealing himself in the Scriptures, are principles, necessary, and immutable by all the Men in the World; yet are they not principles, necessary, or immutable by God; but he might, if it had pleased him, made something else the Law of Nature, or otherwise revealed himself in the Scriptures. So Humane Laws must be prime, necessary, and immutable by Subjects, or their conforming, or not conforming their actions to them, could not be

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1 Cor. 14. 40. 1 Tim. 2.

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44. Faith is the assenting to a thing to be true or false, not as known to the understanding or outward senses, but as commanded or forbidden by God extraordinarily, and supernaturally.

Whether things only credible, may be as certain as known to the senses, and incidently of the divine excellency of truth above any sensible knowledge.

45. It is an admirable thing to consider the providence of God (who is the God of truth) in the preservation of those things, which impartially relate the actions of Men, and the revolutions which have hapned in the world. Nor is it any more then a just and equal testimony *Polybius* in the Proem of his History gives of Truth, *viz.* that she ought to be esteemed as the greatest goddess; and that the greatest power ought to be ascribed to her, overcoming and triumphing over all the oppositions of Men, and verisimilitudes. Nor can any reason be given that *Polybius*, *Livy*, *Plutarch*, &c. did either write such Histories, or that such Histories written by them, were truer then those which are lost and rejected by Men, but only a kind of divine ayre informing Men of their truth; whereas those books which are falsely and factiously written, are exploded and neglected in a very short time; and yet whether they were truly or falsely written, few or no Men can judge from any thing known to the outward sence. I say few or no Man can so judge of them; for in that time when they were written, there were many more false and factious Historians to delude Men, then true and just to inform them. Nor can Men in subsequent generations from any thing in their outward sences, judge or discern whether any thing they record be true or false. Nay further, no Historian (except *Cæsar* and *Xenophon*, and some very few others, who recorded infinitely more things not known, then known to them to be true) did ever know whether what he recorded were true or not. To evidence this yet more fully, there was scarcely (except *Cæsars* & *Xenophons*) ever any History truly written in those times, wherein the things were done, that men might take information from their outward senses; but Men were so carried by Faction or Interest, that in re-

recording of things, they record things not as true or false, but as advancing their Faction and Interest: whereas Men in the subsequent generation not having those Passions and Apperitions, nor any sense of these things; subjecting all their Passions and Affections, as it were assisted by a divine Election, do make Election of those things which are true, and reject others, which the Malice or Faction of Men had imposed upon the World. And a Man is as certain, that there have been such Men as *Cæsar*, *Hanibal*, *Alexander*, *&c.* and as assured of their Actions, as if he had seen them.

46. Since all things which proceed from God immediately, and for which no reason can be given by any Creature, may be justly required for principles by intellectual and reasonable Creatures; and since the Scriptures pr… ar… in… to… B… na… stile, …

Faith is an extraordinary Gift of God.

IRREGULAR PAGINATION.

Word of God, before any Church or Tradition, *&c.* was. And if they had not been the Word of God before the Church received them, and delivered them to posterity; their Reception and Tradition could never have made them so. Besides, the Church having its being from the Scriptures, it can never prove the cause of its being. And what was it less, then the power and grace of God extraordinarily given to *Moses*, That the Bush burned and was not consumed? And of all the miracles done by him, and the other Prophets; and more then those, done by our Saviour, and the Apostles, and blessed Martyrs since? And that by the Preaching of a few Fishermen, against all the Temporal Powers in the World, Christianity should be propagated generally over the face of the Earth; and that I without any thing in me, or desert of mine, am baptised into this Faith? And he that shall dispute the truth of the grace and power of God in the *Old* and *New Testament*, and since recorded in Ecclesiastical and Prophane History, ought as much to be confuted with clubs and hissing, as he that denies or disputes his Principles in any Art or Science.

47. All Principles are true or false, just or unjust, good or bad; either *necessitate absoluta*, or *necessitate medii*. Principles that are true or false, *necessitate absoluta*, are so, that they are immutable by God himself, as that two and two added, should not make four; or that things equal to the same thing, should not be equal to one another; or that any being should be superior to the cause of its being; or that contradictions should be true; or else true or false, good or bad, just or unjust, *necessitate ex hypothesi*: And these though they are necessary and principles to those to whom they are given, and immutable by them; yet are they not principles and necessary to them, who made and gave them. As the Laws of Nature, and Gods revealing himself in the Scriptures, are principles, necessary, and immutable by all the Men in the World; yet are they not principles, necessary, or immutable by God; but he might, if it had pleased him, made something else the Law of Nature, or otherwise revealed himself in the Scriptures. So Humane Laws must be prime, necessary, and immutable by Subjects, or their conforming, or not conforming their actions to them, could not be

All Principles are prime and necessary, either *necessitate absoluta*, or *necessitate medii*.

just

juſt or unjuſt: But they cannot be prime, and neceſſary, or immutable by the Legiſlator, but as he ſees occaſion may alter or make ſomething elſe which was not before Laws for the Subjects to conform and direct their actions to. It is therefore abſurd and wilde to ſuppoſe, that the Law of Nature is ſimply neceſſary and immutable by God, or that the will of Men can make it mutable.

Annotat.

Contra negantes Principia, non eſt diſputandum.

48. All Science, all Learning, all Reaſoning, and all Concluſions, by the Authority of *Ariſtotle*, is begotten from preexiſtent principles (for which no reaſon can be given by the Learner) which being granted, do demonſtrate the Concluſion; but by the Authority of *Ariſtotle*, and all Philoſophers, no Science or Concluſion can demonſtrate the Principles. Where therefore either by a defect in the Underſtanding, Men cannot, or by a ſtubbornneſs in the Will, they will not apprehend Principles, there all Reaſoning, Learning, or Diſcourſe is at an end. If therefore I would learn a Man Geometry, and he either cannot, or will not apprehend the Axioms or common Notions of it, it is impoſſible I ſhould ever make him underſtand the conſtitution of an equilateral Triangle: Or if a Man denies the Laws of my Countrey, I cannot teach him, whether ſuch an action be juſt or unjuſt: Or if a Man denies the Law of Nature, I cannot prove that he ought to honor and obey his Superior, and to deal juſtly and uprightly with all Men: Or if a Man denies or diſputes the Authority of the Scriptures, there cannot be any Concluſion or Inference from them, whether as Chriſtians, any thing ought to be, or not to be done, or believed.

From whence the Confuſions and Diſtractions in Chriſtendom have ariſen?

49. All demonſtrative Science being begotten from certain and neceſſary pre-exiſtent Principles; the Laws of God and Man being pre-exiſtent, where they are clear and not inevident (which is not always the imperfection of Mans Law, nor can ever be of Gods Law) Men may as clearly, and as demonſtratively demonſtrate Concluſions from thence, as from the Axiomes in Geometry: And no queſtion, that all the Confuſions which have lately hapned in Chriſtendom, were not cauſed from any want of underſtanding of the Laws of God or Man, but from the perverſe wills of Men, who would not be reſtrained from their wickedneſs, neither by the Laws of God or Man.

What is Reaſon?

50. Reaſon is a faculty of the Underſtanding, which does prepare, apt, and define things, either in the outward ſences or memory, ſo as they may be comprehended by ſomething before known to the Underſtanding; or Reaſon, is that which does dictate the doing of any thing conformable to ſomething in the Underſtanding.

What is an Axiom or common Notion?

51. All Propoſitions, by the authority of *Ariſtotle*, are demonſtrable or indemonſtrable. Indemonſtrable Propoſitions, are thoſe Propoſitions which are Axioms or common Notions, for which no reaſon can be given; and though indemonſtrable in themſelves, do demonſtrate all the Concluſions which follow from them. An Axiom or common Notion, is ſuch an indefinite, prime, and neceſſary Propoſition, which comprehending any definite thing within its terms, does neceſſitate ſuch a Concluſion.

What is a Definition?

52. A Definition is the comprehending every ſuch individual thing in ſuch a term, as may expreſs ſuch a thing, excluding every thing elſe.

Wherein a Notion and Definition, differ?

53. Although Definitions are properly terms comprehending individual things, yet is there oftentimes a neceſſity of comprehending Notions or Axioms too, under ſignificant terms; as a Law is a term which may ſignifie

nifie all rightful commands (which are prime and universal Propositions to them, who ow obedience to such commands) which comprehending any action, does necessitate such an action to be just. So Geometry not onely comprehends all Propositions which have reference to surveying or measuring of Ground; but also all the Propositions in *Euclids* Elements, are comprehended under the terms or notion of Geometry, *&c.* Definitions are of Singulars, Notions of Generals or Universals; the Reason, Memory, and outward Senses, are of Definitions; the Understanding, of Axioms or common Notions.

The Doctor does not onely confound the Memory and Understanding, where he says, *Quod in ipsa visione, sive actu videndi, singulare, clarum, & indistinctum erat; id ipsum remoto visibili in phantasia, vel memoria reservatum,* (thereby making the phantasie and memory the same thing) *obscurum & indistinctum apparet, &c.* But also here, and *Page* 27. he confounds Axioms, and common Notions, with Definitions, where he says, That from experience comes *ratio Universalis, Definitiones, & maxima sive Axiomata communia, cognitionis certissima.* And the instances he gives of his meaning is quite awry, and nothing to the purpose; For *idem, eidem, secundum idem esse, & non esse impossible,* is not onely not known from experiment, but is as much known to any intellectual Creature, before experiment, as after: And so, *omnis affirmatio, & negatio, aut vera, aut falsa est.* These Axioms are not Axioms, because they are found true by experience; but because universally known to be true, before any experiment was made of them; nor is it possible that experiment should be made of all things, wherein they hold true; the truth therefore of them cannot proceed from experience. *Annot. Pag. 21. de Gen. An.*

54. Although divers Men do phansie the same thing seen or remembred; yet if they do not rationally phansie it, *viz.* by comprehending that thing seen or remembred, in something before understood to be true or false, *&c.* Then do they never conclude or agree in their inference. Those Men therefore, who do not rightly conclude a thing, (either the Object of the outward Senses, or the *Idea* of it reserved in the Memory) from something before understood, but because they affect or desire it to be so, conclude affectionately, not rationally. And Men who do so, are less rational, then other Men who do not. Why some Men are more rational then others?

55. Knowledge, is the knowing of a thing from the causes. What is Knowledge?

56. [a] All Knowledge or Science is either rational, or sensible. *a* Knowledge or Science, how manifold?

57. [b] All Rational Science, is a right Inference or Conclusion, mediately or immediately, from some universal Cause known to the Understanding. *b* What is rational Science?

58. [c] *Intellectus sit Principiorum, Scientia cum Ratione conjuncta. Eth. lib. 6. cap. 6.* Reason is the Instrument of the Understanding begetting; Science is the thing, which from the Understanding by the Reason is begotten. *c* How Science differs from Reason?

59. A Demonstrative Proposition is, when the Predicate or Axiome understood, comprehends the thing defined, which is remembred; Or any right Inference, Conclusion, or Dictate of Right Reason from Necessary and Universal Causes, may be the Predicate of any Demonstrative Proposition. What is a Demonstrative, Affirmative Proposition?

60. A Negative Demonstration is, when Reason shews that the Subject cannot be comprehended by the Predicate. What is a Negative, Demonstrative Proposition?

61. Logicians

The neceſſary parts of every Propoſition.

61. Logicians make three neceſſary parts or terms in every Propoſition, *viz.* the *Nomen antecedens*, the *Nomen conſequens*, and the *Copula*. The *Nomen antecedens*, is the ſubject or thing in the outward ſenſe or memory defined. The *Nomen conſequens*, is the Predicate, or ſomething known to the underſtanding, which comprehends the Subject. And the *Copula*, is that which joins theſe two. As, *Omnis homo eſt animal*: *Homo* is the Subject, or the thing ſeen or remembred: *Animal* is the Predicate or Notion which comprehends *Homo*, which is the thing underſtood; and *Animal* does not only comprehend *Homo*, and all other Creatures which a man has ſeen or heard of, but all thoſe Creatures which he ſhall ever ſee or hear of: And *eſt* is the *Copula* which unites the Subject *Homo* with the Predicate *Animal*.

Annot. When I ſay, the Subject is the thing ſenſible, or remembred, I always except Metaphyſicks and Mathematicks, which are conſidered without any ſenſible matter. And indeed it is an admirable thing to conſider, how intelligibly Mathematicks are underſtood without any ſenſible matter, more then any corporeal things are.

Rational Science is produced from the underſtanding by the reaſon and memory, or outward ſenſes.

62. It is truly obſerved, that every perfect creature is generated from matter and form, diffuſed in ſeveral bodies and creatures; and that this matter and form, ſo long as it continues thus diffuſed in divers bodies, is never qualified for generation or production of any creature, until they become united into ſome place apted and diſpoſed for production, where from the benign influence of the Sun or celeſtial bodies, as from a more univerſal and efficient cauſe, they evade into living creatures. Nor does this hold leſs true in the production or generation of all rational Science; for the Reaſon by it ſelf without matter, cannot form, diſpoſe, or define any thing. Nor does the outward ſenſe or memory apprehend things otherwiſe then as ſeen, &c. or remembred, not as formed, diſpoſed, or defined, ſo as to be the ſubject of a Propoſition. Since therefore the Reaſon cannot prepare, apt, or define, unleſs the Memory or outward ſenſes ſupply matter; nor the Memory without the Reaſon diſpoſe, prepare, or define any thing ſo as to be the ſubject of a Propoſition; it does neceſſarily follow, that the Reaſon united or conjoined with the Memory, does prepare the ſubject of every Scientifical Propoſition. But in every Scientifical Propoſition, there muſt be a Predicate, which comprehending the Subject, muſt be underſtood. The Underſtanding therefore is the prime and efficient cauſe of all rational Science; and the Reaſon is the formal cauſe, which does diſpoſe and prepare the matter in the Senſes or Memory to be comprehended, judged, or diſcerned by the Underſtanding: And by conſequence, the Reaſon and Memory, or Senſes, are but the Inſtruments by which the Underſtanding does generate and produce Science.

Why only Man is a reaſonable creature.

63. Only Man can rightly infer and deduce particular Concluſions from univerſal Cauſes, and can direct his actions conformable to things in his underſtanding, (and not to his appetite and ſenſes, which is common to all living creatures as well as man:) only Man therefore is a rational creature.

By what means men attain to Science.

64. All men naturally deſire to know: And though by *Ariſtotles* judgment, all Science is begotten from preexiſtent Knowledge, which from things granted does demonſtrate the Concluſions; yet muſt there be ſome manner and method which men muſt uſe, by which others as well as themſelves may underſtand this, or that thing to be a Science, or ſcientifical

Concluſion

Concluſion. Men therfore muſt propoſe that method which *Euclid* obſerves, or all their ſcience will be equivocal and obſcure, *viz.* Firſt to define all thoſe things of which his ſcience is compounded, in ſuch terms, that every ſingular or individual may be ſo comprehended, that it may be wholly with all the parts of it contained in the definition, excluding every thing elſe: For if a man define a thing ſo, that there be any ſo much as equivocation in it, as that it does not ſignifie this only thus defined, but may ſomething elſe; then of neceſſity muſt all the Science that bears a part of this definition, be equivocal and uncertain. And as the definition muſt not be equivocal to ſignifie more then the thing defined, another thing as well as this; ſo neither muſt it ſignifie leſs, *viz.* any part of the thing defined, for the thing; for then all in which this thing is a part, will be infinitely deficient and imperfect.

Secondly, After the definitions, I require ſuch things as no ingenuous man will deny: As, that I may adde, divide, multiply, convert, &c. theſe things thus defined.

Thirdly, I ſet down thoſe Axioms, Principles, *Effata, Pronuntiata,* Common Notions, or Indemonſtrable Propoſitions, which are the firſt cauſes of the Science, and do demonſtrate all the Concluſions of it; but in themſelves are indemonſtrable, and for which no reaſon can be given, but only the good will and pleaſure of him that made them ſo. And theſe Principles muſt be granted, before any man can by his Reaſon produce any Concluſion. And if a man denies theſe Principles, all Argumentation is at an end; for, *Contra negantem principia non eſt diſputandum:* And no mans Reaſon can work upon nothing; nor prove, nor find out any thing, before ſomething be firſt granted, by which a man may prove it, or find it out.

Why ſome men are more phantaſtical then others.

65. I have known, and know many men, who have vaſt memories, and very ſtrong phantaſies, who notwithſtanding have been as unreaſonable as any; and would never admit of any diſcourſe of any thing they fancied to themſelves, but upon a very ſlender oppoſition would fall into paſſion: And the reaſon is, becauſe they phancie things only becauſe they pleaſe them, and do not underſtand them as true. And if any man ſhews ſuch a man ſome Conſequence which will not follow from what he phancies, or that it is inconſiſtible with ſome known univerſal Truth; then does he ſeek to ſupply with paſſion what he wants in reaſon, becauſe he is croſſed in what he deſires ſhould be true. Whereas men who underſtand, or deſire to underſtand their *Theſis* or Notion, not only take pleaſure that nothing can be inferred from it which is falſe, and that it is not inconſiſtible with any thing true whatſoever; but will be ſo far from falling into paſſion with any man that oppoſes it, that they would thank any man, and take him for their friend, that can ſhew them wherein, what they ſuppoſe to be univerſally true, is not; or that it is inconſiſtible with ſomething which they ſuppoſe to be univerſally true. The Spirit of God ſays, *He is a fool that rages and is confident.* Theſe light phantaſtical men, who will phancie things for truth, not becauſe they are ſo, but becauſe they would have them ſo, do not only rage when they are convinced that thoſe things they phancie for truth, are made to appear either but veriſimilitudes, or falſhoods; but will take them for illwillers who convince them, and continue as confident in their fooliſh apprehenſions, as before.

Why some men are more dull then others.

66. As the levity of the Phantasie (which is always in agitation) apprehending things without Reason, is the cause why men too suddenly apprehend Verisimilitudes for Truth; so the want of Phantasie is the cause why many men of vast memories, very slowly apprehend the cause of any thing. Where the Phantasie is too light, there men apprehend or believe every thing for Truth, they affect or desire, and are soon perswaded to any thing they are not wilfully prejudiced to. Where it is crass and dull, and moves slowly, or as we say, where men are endued *pingui Minerva*, there men are hardly moved to understand any thing.

What is Sensible Knowledge.

67. Sensible Knowledge, is the retaining the Idea of things in the memory, which before were in the outward senses. And there being neither Reason nor Understanding to the attaining of this Knowledge, it is common to other Creatures as well as Man: *The Ox knows his owner, and the Ass his masters crib*, says our Saviour.

Of Argumentation *à Posteriori.*

68. But all Causes from whence men do infer and discourse, are not so perspicuous, as are the Axiomes in Geometry, or the Laws of God and a mans Country. But some Causes are known to Nature, and not to us; as the Quadrature of a Circle; and what proportion (or *ratio* rather) the subtending side of an *Isoceles* right-angle Triangle, hath to one of the comprehending sides. And some Effects are certainly known to us, but the Causes are not known, either to the understanding or outward sense; as, that Summer is hotter then in Winter, and that men are sick and indisposed. I say therefore, where the Causes are but probable and conjectural, whatever the Effect be, no Conclusion can possibly amount any higher; for, *Conclusio sequitur deteriorem partem.*

No Art or Science arises from Argumentation *à Posteriori.*

69. All Arts and Sciences are begotten from pre-existent Principles, which are known to be necessarily true. But in argumentation *à posteriori*, the Effects are only known to be, but not the Causes, which are only probable. No Art therefore, or Science, does arise from argumentation *à posteriori.*

No probable Conclusion arises from Experiment or Memory.

70. By the 38. Proposition, it is impossible that any thing in the memory or the outward senses should be judged, phansied, or concluded, but by something which was before in the understanding. Experiment therefore, memory, or the outward senses, which only apprehend the material forms and effects of things seen, &c. cannot conclude any thing probably, any more then a dead body can move without life: besides, it is so ridiculous, that I wonder every man does not deride it. Will any man say, a great Lout new whipt, is probably like to make a good Schollar, because he hath made experiment of the strokes of a Rod? or that the Fool in *St. Foneses* is a wise fellow, because he makes experiment of the power of the Sun by his every daies sleeping in the rais of it? Or that a Butcher is an excellent Philosopher, because he makes experiment of killing Cattel? And that experiment and memory does not move one step to the attaining of any probable Conclusions; the Physitian or Philosopher reads the lecture on the parts Anatomized, whereas the Surgeon dissects and makes the experiment. And if experiment were the only way to attain to probable conclusions in Physick and Philosophy, then not the Physitian, but the Apothecary were the better Philosopher.

There is no probable Conclusion, without Experiment or Memory.

71. If by the 7. Proposition, the apprehension of universal Causes, certainly and necessarily true, in the understanding, cannot produce or prove

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any thing without the concurrence of particular causes; then in reason cannot probable causes of themselves without the concurrence of particular causes, either known to the outward sense or remembred, produce any thing. I will not therefore give one rush for any Physitians, or Philosophers judgment, who is not an experienced man.

From whence men attain to probable conclusions.

72. There are some things which nature brings to pass, without any art or help of any Creature; others never without art and industry, as a House, and all Arts and Sciences. In the first God is the great and only Opificer: And it is only He who made Man and all other Creatures (not meerly spiritual) of such principles, and so compounded, that they every minute tend to the resolution of their first principles; and yet in their thus dying, something should generate in them, which should perpetuate the generation of them in their species, as they shall dye in their individuals. Thus we see some soyl brings forth (without any art or industry of man) Grass, Firr, Broom, &c. Some is of a petrifying quality; in other are Mines of Silver, Gold, Coal, &c. *& non omnis fert omnia tellus.* Some men grow sick, others well, without any cause from themselves: These causes therefore being only known to God, there cannot be any demonstrative conclusion from them by men, because the causes are not evidently and necessarily known. But although it be not Gods pleasure that men should understand the causes of these things, so as to conclude demonstratively from them; yet as having made two lights of different splendor, *viz.* the Sun and Moon, though men see clearly only by the light of the Sun, yet do men see, although obscurely and but probably, by the light of the Moon; so though men do not in natural Philosophy and Physick from prime and necessary causes, as from the light of the Sun, see so as to conclude demonstratively; yet hath not God always in these things totally shut out all light from men, but they see as by the light of the Moon; and in Philosophy are Theses, and Aphorisms in Physick, from whence by these senses, memory and experiment, men proceed infinitely, and daily probably finde out things, which before were not so.

No argumentation *a Posteriori* where Men agree not upon Principles.

73. As in all Argumentation *a priori*, there must be Principles assented to, which must be the rule and reason of the argumentation: and where men either by stubbornness or defect of understanding, apprehend not Principles, there of necessity can be no Art or Science taught; so in argumentation *a posteriori* men must agree upon some Theses, or Aphorisms, which must be the rules of the argumentation; men may discourse of the causes of things, and not improbably conclude, where they can make no experiments; (as in the causes of Meteors and Comets:) but no man can from all the experiment in the world conclude any thing, but from something in the understanding which must be assented, and comprehend that thing of which the experiment was made. When therefore men by a defect in the understanding cannot apprehend Theses, or Aphorisms, or by stubborness they will not; there all argumentation in either Physick, or Natural Philosophy, is at an end, and it is impossible such men should either learn or be taught.

Why only man attains conclusions *a Posteriori*. *Annot.*

74. Only man can by his reason from causes probable in his intellect, rightly infer and conclude the causes of things in the memory or outward senses, only man therefore can attain probable conclusions, or conclude *a Posteriori.*

King *James* would affirm of his Hounds, that in their hunting they used

reason, for when they had overrun the scent, they would return on both sides of the path where they came, and if on neither side they hit the scent off, they would run back, concluding because it was not on, nor off on neither side, it must necessarily be back where they came: But more narrowly looking into, this is not done of the Hounds by any reason, or acquired habit, but from an internal excited appetite moving them, as Birds make nests, and Bees hony-combs, which they cannot but do at such times, but cannot at other times, nor yet learn nor teach them other creatures, nay, nor of the same kinde with themselves; take a Hare, Dear, or Fox, &c. and let them be kept among Hounds in their kennel, or so that the venatious appetite of them is not excited, and they will not meddle with them: whereas men do not acquire Arts and Sciences by any necessary impluse moving them, and only at such times when they cannot do otherwise: nor are they excited thereunto by any material outward object, but may learn and teach them other men, and not upon necessity, but upon all occasions as they shall judge requisite.

Things known to the outward senses, are more evident then any probable conclusion.

75. Since every conclusion does follow the weaker part of the premises, and since in all conclusions *a posteriori*, the effect is onely known to the outward senses, and the cause but probable in the intellect; the conclusion cannot amount any higher then probable. But Men by their outward senses do apprehend things more then probably. Things therefore apprehended by the outward senses, are more evident then any probable conclusion; and by consequence, no man will reasonably dispute probably against what another hath seen or felt, &c.

Things known to the understanding, are more evident then to the outward senses.

76. There is nothing so much resembles God, or Heaven, as Light; nor any thing so much Hell, as Darkness. So incomprehensible is Light, that it cannot be defined. In all other things, the motions, actions, accidents, or passions happen in succession of time; only light *diffunditur ab instanti*. The rays and effluence of the Sun, notwithstanding the immense distance of all the created bodies in the Universe, at the same instant of time, not only give light to them all; but their power and influence is the prime and efficient (at least instrumental) cause of the generation and preservation of all corporeal creatures in them. If a man considers the Light of the little world Man, in the eye, (how it at the same time sees (notwithstanding the vast interposition of space) so many and so admirable works of the Creation;) it cannot less then beget an astonishment in him, of the great power and goodness of God towards him; yet how infinitely short this outward visible sight of the eye is to the Divine Ray in the understanding, appears in this, that more is to be applyed to one principle known to the understanding, or to one demonstrative conclusion from thence, then to the sight or sence of all the men of the world to the contrary: Should therefore all the men in the world affirm, *That they had seen two things equal to a third, and not equal to one another; or that they had seen an Orthogonial Triangle, the square of whose subtending side were not equal to the squares of the comprehending sides; or a right lined Triangle, whose three Angles were not equal to two right, &c.* yet would I ascribe more to the truth of these thinge known to the understanding, and from thence truly demonstrated, then to the affirmation of all the men in the world; nay, so necessary are these things, that God (who can annihilate all the Universe in a moment,) cannot make them otherwise; or should all the men in the world affirm, that *I ought not to serve God, nor honor my King and Parents, nor keep*

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By *Def.* 4. *lib.* 5. *Eucl. Proportio eſt rationum ſimilitudo.* And *Def.* 5. it muſt conſiſt of three terms at leaſt, though indeed it muſt of four: For where the terms are but three, the *medium* is iterated twice; as what proportion 4. hath to 6. 6. hath to 9. All Geometrical proportion is either diſcrete, or continued. Diſcrete is, when the *ſimilitudo rationum* is only between the 1. and the 2. and the 3. and 4. term: As 2. 3. 4. 6. is in Geometrical diſcrete proportion; for, the *ſimilitudo rationis* of 3. to 2. and of 6. to 4. is the ſame, *viz. ſeſquialtera*; but the *ſimilitudo rationis* of 4. to 3. is not the ſame, it being *ſeſquitertia*. In continued proportion, the *ſimilitudo rationis* is the ſame in all the terms; as in 2. 4. 8. 16. the *ſimilitudo rationis* of 4. to 2. and 8. to 4. and 16. to 8. is the ſame, *viz. dupla*. In all Geometrical proportion, the extremes multiplied into themſelves, produce the ſame number with the mean terms multiplied into themſelves.

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78. Experience, is the trial or apprehenſion of things from the outward ſenſes; and this is common to all ſenſible creatures, as well as man. And therefore, although according to the judgment of *Ariſtotle, Scientia* be *activa*; and therefore being only in the immaterial object of the underſtanding, it may be learned and taught without experience: yet Art being faction, as it is applicable to ſome material ſubject, cannot be taught without experience. Notwithſtanding *de facto*, from the outward ſenſes only Of Experienc. and what Knowledge ariſes from thence. *Eth. lib.* 9. c.

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reason, for when they had overrun the scent, they would return on both sides of the path where they came, and if on neither side they hit the scent off, they would run back, concluding because it was not on, nor off on neither side, it must necessarily be back where they came: But more narrowly looking into, this is not done of the Hounds by any reason, or acquired habit, but from an internal excited appetite moving them, as Birds make nests, and Bees hony-combs, which they cannot but do at such times, but cannot at other times, nor yet learn nor teach them other creatures, nay, nor of the same kinde with themselves; take a Hare, Dear, or Fox, &c. and let them be kept among Hounds in their kennel, or so that the venatious appetite of them is not excited, and they will not meddle with them: whereas men do not acquire Arts and Sciences by any necessary impluse moving them, and only at such times when they cannot do otherwise: nor are they excited thereunto by any material outward object, but may learn and teach them other men, and not upon necessity, but upon all occasions as they shall judge requisite.

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Concluſion. 79. It is therefore evident, that neither the Principles of Arts and Sciences, nor Arts and Sciences, nor any Concluſion *à Poſteriori*, is to be enquired into only from the Memory and Experiment, according to *Ariſtotle's* and the *Doctor's* Judgment; but Science may be taught without Experiment: And that what is begotten from the Memory, Obſervation and Experiment, is common to all ſenſible creatures as well as men.

Part. 29. de Gen. Anim. And whereas the Doctor ſays, *That there can be no prudent and truly knowing man, who by his own experience hath not throughly underſtood a thing to be ſo; for, without that, we only have Opinion, and believe; but the Knowledge is rather to be eſteemed other mens, then ours:* I ſay,

Felix quem faciunt aliena pericula cautum.

Let other men by experience know, that Laws hang, whip, and otherwiſe puniſh; I ſay, let the Knowledge be theirs, for all me. And in vain ſhould all counſel, advice, diſcourſe, and reaſoning be to any prudent man for the direction of his actions, if Experience only of our calamity be the true and onely way to attain to Knowledge. And though I be infinitely more in love with one Demonſtration *à Priori*, then it is poſſible any other can be with any direct or probable Concluſion *à Poſteriori*; yet will not I therefore exclude all Argumentation *à Poſteriori*, but reverence both the memory of *Ariſtotle* and the *Doctor*, as two of the moſt eminent Philoſophers of the Antients and Moderns, who by their learned Labors have tranſcendently well deſerved, both of the preſent Age, and ſhall of all Poſterity.

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OBSER-

OBSERVATIONS
UPON
Mr. *Tho. White* Gent. his Grounds of Obedience and Government, Dedicated to his best Friend
Sir *Kenelme Digby.*

The First GROUND.

Wherein consists the Perfection of Government.

OUr Author begins and tells us, he hath learned a Lesson in *Cyropædia* (it will prove a short one, and yet more then is true) wherein *Xenophon* moves the Question, *Why of all other living Creatures which are of different natures from Man, we easily attain to the mastery and rule, but few Men are so intelligent as to be fit to govern Men, and those the worthiest part of mankinde?* Author.

Why, some body that hath better eyes then I, finde any such thing in *Cyropædia*, as this last, *but few Men, &c.* But our Author who hath made *Xenophon* speak what he list, may best answer what he thinks good himself, which he wisely does, and so makes up the first Paragraph. Observ.

By the way, it is a marvellous thing that *Xenophon* a Heathen man, in his Proem, should in admiration recite those very things of *Cyrus*, which God by that most noble Prophet (extracted from the loins of Royal Ancestors) foretold almost One hundred and fifty years before *Cyrus* was born, in the very name of *Cyrus*, which any man who compares this Proem with the six first Verses of *Isaiah*, Chap. 45. may see.

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Author. But our Author goes on and tells us, *We need not look into Philosophy, nor study learned Books, to know that the nature of man is inclined to have its own will, and casts all things which are under his consideration to compass and effect it: As also every ordinary mans knowledge and consideration, is far beyond any we finde in other living creatures; and by consequence, is far less easily masterable then any of them.*

Observ. If God had not made Man a Rational and Intellectual Creature, and ingraven the Law of Nature in his minde, that he might conform and direct his Actions thereunto, but onely his Will to be the Rule and Reason of them, I should be content to subscribe to what our Author says in this Paragraph; but indeed I shall not easily renounce all these to assent to him.

Author. *Whence we may plainly collect, That were it possible for a Governor to make every single Person in his Dominion understand particularly, that what was ordered by the Government, was his own truest Interest; such an one would be the most absolute and perfect Governor; and infallibly would finde the charge of governing most easie and sweet, as well to himself as subjects.*

Observ. Our Author in the antecedent Paragraph makes Man inclined onely to have his will in all things: In this he tells us it is best for the Governor to make every individual subject to understand; which is to no purpose, if every man will have his will, and do onely in order thereunto.

Author. Our Author to clear this case, both in Reason and Experience, tells in the next Paragraph, *Of driving a Wedge into a hard piece of Wood, and of Blacksmiths laying their Iron upon their Anvile in a scituation below their Heads.*

Observ. He means sure, such a position best sorts with his discourse.

Author. *Upon which Principle it is, that they who tutor Dogs, Horses, Elephants, and Hawks, knowing the ordinary attractive of Beasts to be meats, and some kinde of flattery, make them to understand to the proportion of their capacity, that to do the action they breed them for, gains them food: To which they joyn also certain motions of stroaking and gentle words, that make an impression in the Beast of its own excellency, and that it pleases its Master. In like manner to deter them from certain actions, Cudgels, whips, and harsh words are used, which have a notabler efficacy then one could imagine, if he saw it not by experience.*

Observ. Our Author before having made Man onely to have Will, here makes Hawks, Beasts, and Beasts to have understanding; and by consequence himself a verier Beast then Dogs, Horses, Elephants, and Hawks.

Author. *This (viz.* Flattery, Cudgels, Whips, and harsh words) *applied to mankinde, drives the effect home* (and see his Reason) *for Man being a Rational Creature, (whose inclination is to work according to Knowledge) desires to know that the work prescribed him, is good.*

Observ. Did ever any man hear that Flattery, Cudgels, Whips, and harsh words were to be applied to Man, because he is a Rational Creature; and that from thence he desires to know, that the work prescribed him, is for his good? Indeed stripes are fittest for the back of a Fool; it may be it is from thence our Author knows no other way of attaining his good. And here he makes Man to work according to the inclination of his Knowledge, and before of his Will. And I tell our Author, a Man may know his Masters will, and not do it; and therefore a Mans Will and Knowledge are different things.

Our

Our Author concludes this Paragraph, *That the Nature of Man is to be free; and to act whatever he does, because it seems best unto him.* Author.

But in the next Paragraph he begins concluding, *That to make Men work freely, is to determine their actions; and concludes, That if Reasons were solid, when the Governor proposed them, such must of necessity be for the most part the sequel.*

Thus hath our Author learned new terms of Philosophy, which neither the Schools, nor *Aristotle* ever heard of, *viz.* Of determining Mens actions to make them work freely, and that necessity is but for the most part; the contrary of which is true in both, for necessity is *ad unum* and determined, and freedom *ad plura.* Observ.

Yet these are things of no consideration with our Author; but he goes on confidently, and in the next Paragraph tells us, *Experience maketh this same as manifest as Reason concludeth it*; and then tells us *of a Mother and Nurse, and of a Sucking Childe, and gay things*, and I know not what indeed, and nothing to the purpose; and at last concludes, *That the perfection of Government agreed on by all hands, is to make the obeyer understand, that it is his own profit the action aims at.* Author.

Why, and I tell our Author, That to make the obeyer understand that it is his own profit which the action aims it, is the next way to ruine this, or any other action which any Governor undertakes for the good either of himself, or the obeyer. For, Secrecy (the life of all actions and designs, a quality wherein Cardinal *Richlieu* was so eminent) cannot be, if the obeyer must be made to understand that it is for his good. Expedition for Performance, cannot expect a return of the Subjects understanding, whether such a thing conduces to their good or no: Besides, it is a madness for any man to go about to make another man understand, what is not possible for him to do. Now Reasons and Mysteries of State so far transcend the capacities of Subjects in general, that it is impossible for them to understand them; and one of the chief ends of all Government is, To suppress Faction, and retain the governed in their Obedience. And the endeavoring to make the governed to understand, whether this or that be better for them, will probably divide them into Factions, about this and that (for Reason, God knows, but little will be found amongst them) to the danger and destruction of one another. It is sufficient for the obeyer to understand, that his Safety and Preservation depends upon his Obedience, and that his ruine follows from his disobedience: And what General of an Army (who hath but a subordinate power) who commands a party upon a design, though to the peril of their lives, will expect a return from that party, That they do not understand that this design is for their good? With more Reason ought a Supream Prince to expect obedience from his Subjects to his commands: Rightly therefore says *Seneca, Nil mihi frigidius videtur, quam lex cum prologo, Jubeat enim, non suadeat lex.* And *Cicero, Cum legem dico, nihil a me intelligi volo quam imperium, sine quo, &c.* Observ. Author. Observ. Author. Observ.

The Second GROUND.

Author. *That the Nature of Man reacheth not to the Perfection of Government.*

Observ. IT is true, That all Power in Government whatsoever, which is not Legal or Ecclesiastical, is Natural; yet no Government or exercise of Power whatsoever is Natural, but Rational, Politick and Voluntary. Our Author therefore, who goes about to make all Power in Government, Politick and Voluntary, and Government to be Natural, is like to have a great task of it. Well therefore may he be lost in a wood, and cry out, It is impossible for him to finde the way out, *&c.* He is like a blinde man, who because he is so, would perswade another that no body sees; or like a man that hath lost his way, says, There is no such thing as the high Road: Sure he thinks no man can see but with our Authors eyes, or that it was said to him, as to *Esdras*, *Accendam in corde tuo lucernam intellectus:* Why, if he had learned his Lesson a little further in his Master *Xenophon*, he would have told him, That to govern Men, was neither to be put into the number of those things which could not be done, nor to be esteemed hard to be done, if a man knowingly handle it.

Thus much for the Contents; and as for the Chapter, let any man shew any one line of the nature of Man, or Government, what either of them is, or wherein this natural defect of Man in governing consists, and I shall be ready (if our Authors mysteries transcend not my understanding) to be

Author. his Scholar: Nay instead thereof, he tells you of *Childrens inability of judging, and of the grosness of the capacity of others.*

Observ. What, though? will it follow, because that many persons are Children and Fools, that therefore *Tho. White* must never hope to be wiser whilst he lives?

Author. Then he tells us, *How most spend their time in business, and the Prince must trust his Physitian, Mariner, Soldier, Lawyer, Cook, Brewer, Baker, and divers other Trades and Knowledges, which he hath no possibility to understand so perfectly as to be a master in them.*

Observ. Our Authors meaning is, if he mean any thing, sure, That the Prince is not served by the Physitian, Mariner, Soldier, Merchant, Cook, Brewer, Baker, *&c.* but that he is governed by them: And if it be impossible to serve two Masters, who equally command, how is it possible for a Prince to obey, and serve all these Masters our Author makes him, which have the supream power over him, the Cook, Brewer, or Baker, which are the undersorts of Governors, as he calls them *Ground* 8. And how can he be Prince, who must be subject and subordinate to all?

Author. Our Author goes on and tells us, *Nevertheless Nature does not recede wholly from her Principle, in thus subjecting one mans understanding to anothers, and the greater most times to the lesser; for it does not this otherwise, then by making the party subjected, see, it is his own good to trust anothers skill.*

But

But if Government be ſupernatural, as the Ground ſaies, how can a man ſubject himſelf to another in that thing which was alike impoſſible to him and the other? Nor is it leſs abſurd to ſay, the party ſubjected may ſee it is his own good to truſt anothers skill, when as the thing to be ſeen is inviſible, and above the ſight of one and the other. *Obſerv.*

Notwithſtanding this ſubjection our Author concludes, *That the party ſubjected, is ſtill free and Maſter of his own action, and the commanding part of it.* Which is abſurd and a contradiction; for a man cannot be ſubject and free to the ſame thing. *Author.* *Obſerv.*

The Third Ground.

That a rational Ground is neceſſary to humane Action. *Author.*

WHat our Author means by Rationality, I do not underſtand, nor I beleeve he neither; for reaſon muſt preſuppoſe ſomething, before any mans Reaſon can operate; and this thing granted muſt be ſuperior to Reaſon, and the Reaſon of the Inference, Concluſion, or diſcourſe. And *page* 180. our Author ſaies, *God has no irrational, or dead title over his Creatures.* True, but though God has no irrational title over his Creatures; yet cannot God have a rational or derived title over his Creatures. For if it be rational, or derived, then would I know from whom is it derived? If it be abſolute, and underived, then how can it be rational, or what can be the reaſon of it? Well, but our Author ſaies, *As he has none in himſelf, ſo likewiſe has he not given any to thoſe he hath put in Authority.* *Obſerv.* *Author.* *Obſerv.* *Author.*

And I ſay, that if Authority be originally in God, from whence it muſt be derived, then cannot it be an artificial or invented thing by our Author or any body elſe: And indeed I muſt confeſs to our Author, that I can never hope for a rational belief, of ever underſtanding any one Propoſition in this Third Ground; nor tell how to deduce one Propoſition from it; I ſhall therefore obſerve nothing more upon it, then that this whole Chapter is a general Canting. *Obſerv.*

The

The Fourth Ground.

Of the vertue of Obedience, and wherein it consists.

Author. *OUt of this we may easily understand what Nature intends by the vertue of Obedience,* (If any ingenuous man understands one Proposition out of it, I will submit) *and what are the limits and laws of it; For it is plain, that the immediate end is, that our works and all that concern us may be well done, even to those things wherein our selves have no skill, or not enough; and the more remote end to be atcheived by this, is that our life may be good and happy, and the end of nature arrived at by us.*

Observ. Wisely spoke, *Lucullus*! It were worth an enquiring, whether this be a definition, notion, or proposition? But whether it be sence or nonsence, our Author saies it is easie to be understood, not what Obedience is, but what the Laws and limits of it are? And then takes leave both of the Laws and limits of it, and saies it is plain, that the immediate end is, that our works & all that concerns us may be well done, even to those things wherein our selves have no skill, or not enough; and the more remote end to be atcheived by this, is, that our life may be good and happy, and the end of Nature arived at by us. So here are three ends, and all plain, *viz.* the Immediate end, the more Remote end, and the end of Nature; but where the easie to-be-understood Laws and limits of Obedience are, or which of the three ends is the plain and immediate end of it, (and yet we our selves to have no skill in those things it concerns) is sure an easie to be understood, plain, and immediate end only to our Author, and no rational or intellectual creature beside.

What would our Author have? I cannot tell. Now because aswell in *Theologie* as in *Geometry*, *Physick*, *Philosophy*, and in all *Arts* and *Sciences* whatsoever, there must be *quædam postulata*, some Axiomes and Principles given, which must be so plain and perspicuous, that no exception can be taken against them, and these *Aristotle* calls *Indemonstrable Propositions*; for if there be any so much as *equivocation* in any of them, the Conclusions and Inferences from them must be infinitely more uncertain; And because that *Definitio est exclusio æquivoci*, before we proceed, let us define what obedience is: *Obedience then is the conformation of ones will to the rules & precepts of his superior*: As when a Creature conforms his will to the rules and precepts of God; or when a subject conforms his will to the Law of his *Soveraign*; or when a Son conformes his will to his Fathers Commands: This is Obedience, and he that does not obey, sins.

Well our Author goes on and tells us, *The Conditions are three.*

Author. First, *That the matter of the action be such, as our selves are not sufficiently skilful in*; and yet *Ground* first, he says, *The perfection of Government is to make the obeyer understand.*

Secondly, *That our Commander be a Master in that Art.*

Observ. Now how can I tell whether my Commander be skilful, in what I do not understand?

Object. Why, he tells you in the precedent Ground, *That I must trust my Lawyer and my Physitian, though I be neither.*

Answ.

Answ. True, but I am not bound to this Lawyer, or that Physitian; but in case of subjection, I am bound only to my Prince: Nor do I sin, if I follow not the advice of either; which I do, in not obeying my Superior.

Thirdly, *That he be an Honorable person in whom we deal.* Author. Observ.

Our Author, no doubt, is a wise Fellow, and likely hopes that he or his Patron may be this Honorable person, when this Fustian shall be acted. Now here let any man see, (if any thing may be collected out of this mystical nonsense, or what follows hereon in the two next subsequent pages) whether our Author does not make Obedience to consist on the Obligors part, in conformity to a delegate and subordinate power of their own making: As if I give my Servant power to receive my Rents, or my Bailiff power to oversee and order my grounds, which my Servant and Bailiff do, that then I obey my Servant and Bailiff. Well therefore may our Author say, that it is a fallacious principle, to maintain *Obedience to be a principal vertue,* Pag. 22. since he understands no better: Why then I will tell our Author, that, at worst, 'tis better then the *Sacrifice of Fools,* and therefore better then any thing he can say or do without it.

But how mean a thing soever he makes Obedience here, yet he rarely keeps long in a mind to any thing; for, *pag.* 98. he says, *We know, by consequence, how excellent a vertue this act of Obedience is; having a motive of so great a price and high elevation above other ordinary employments, which reach no farther then to his private good.* Ground 12. And then most senselessly he confounds the offices of Command and Obedience; and as absurdly prefers the obedience of the Commander, because it is not commanded or limited, before the idiotical good of the Subject: observing the same method in Obedience, as he does in his Laws; sometimes they are the Peoples Laws, which restrain their Supreme Trustee, or Governor; otherwhile they are the Trustees Laws, who may with our Authors licence at other times do what he list. Such plain, certain, and easie to be understood things, are our Authors Laws and Obedience.

But oh, our Authors Will is such a thing, (as you know who rage and are most confident) that by no means he will part with it: 'Tis all a case to him, whether there be a King, or no King in Israel; for he will do what is right in his own eyes. For our Author says, *In renouncing the power of our Will, we renounce our Understanding also.* Pag. 23. Our Author for his part needs not fear it; but sure he fears that if he do so, (because he cannot hope that he is qualified enough to be a Privy-Councellor) that he has bound himself up from dabling with the *Grounds of Obedience and Government.* Observ. Why, he should do well to be of Counsel with *Adam* against God, for the Devil and he agree in the same thing, *viz.* That it is not liberty enough for *Adam* to eat of the other trees of the garden in Eden; no, *Adam* must not renounce his will and understanding too, in order to his chiefest good (the knowledge of good and evil) and making himself like unto God, by tasting the forbidden fruit: To our Author it is not liberty enough, for the Subject to square his actions to the Laws and Rules of his Country; he must not renounce his will, to be commanded by King or Laws, but must have his will too in making of Laws. Now let our Author tell me, what a Government this is like to prove: Who will hold the plough, that is perswaded he may handle the scepter? Who will live in an obscure cottage, that hopes

he

he may govern at the helm? or eat his bread in the sweat of his brows, who may expect to fare deliciously every day? And now let me tell our Author once for all, That humane Laws are made to retain Subjects in their obedience, lest a worse thing happen unto them. There must be no starting out, or breaking loose from them: For, Laws are like the banks which encompass waters; if there be the least hole in them, the banks will be blown up, and the waters lose themselves.

The Fifth GROUND.

That Fidelity is different from Obedience, and wherein it consists.

Author. NOw some good body help a lame Dog over the stile! Here we find our Author taking monstrous pains, and in a great sweat; why what's the matter trow? What! Our Author undertakes to shew, that *Servants owe their Masters no obedience, but fidelity only.* And this he would prove by a mighty argument, *viz. A man buyes a piece of Cloth or other merchandise of another, and pays for it; And therefore Servants owe their Masters no obedience.* And if this will not do it, his *Ipse dixit* must, or he loses an essential ingredient towards the patching up of his Fools

Observ. paradise. Now herein our Author and I differ, (and I fear we shall never agree in any thing:) Our Author will trust his servant, where he expects no obedience; and I will make my servant obey me, whenas (it may be) I will not trust him for a groat. And indeed our Author will do more for his servant, then I see in reason any man should do for him: For, *pag.* 141. he tells us, *In pure Morality he may falsifie and break promise, if he save any thing by it, and is better then his word.* I shall say no more in answer to this Ground, but object the authority of the Holy Ghost against it, *Ephes.*5.6. *Servants be obedient to them that are your Masters according to the flesh, &c.*

The Sixth GROUND.

In what consists Right or Due.

Author. HEre our Author says, *The next Consideration may appear too Metaphysical a Nicety for a Moral Treatise:* Yet he armed *Cap-a-pe* in compleat Ignorance, valiantly attempts it, and will tell you of I know not what, of *Reason, which takes nothing to be good, but what is good for a mans self; and makes it the rule of his actions, to do what is fitting for him, or conformable to his, that is, to a Rational nature. But this is a rule by which he treats Horses, Dogs, Trees, and Stones, &c. and runs through all his actions.*

Observ. Well: But since the men of this world were never more unreasonable, and every man so pretending to Reason, and yet no man almost can tell

tell what he means by Reaſon, let us ſee what *Ratio*, Reaſon is; and what Reaſoning is; and why Man is onely ſaid to be a reaſonable creature. Reaſon is properly that power of the ſoul, by which a Man is diſcerned from other living creatures, and by which he does excell and command them: By *Horace* it is put for the reaſoning and diſcourſing of the ſoul, for finding out what is true; *Ratio ponitur pro ratiocinatione & diſcurſu animi, ad inveſtigandum verum. Cicero lib. 2. ad Heren. Ratio eſt cauſa quæ demonſtrat verum eſſe id, quod intendimus brevi ſubjectione*; Reaſon is the cauſe which ſhews that thing to be true, which we intend in a ſhort view: And Reaſon is many times equivocally uſed for Counſel, as *Cicero in Verr. Mea quidem ratio, cum in præteritis rebus eſt cognita, tum in reliquis explorata & proviſa eſt*; My counſel is as well known in things paſt, as throughly tried and provided in other things. Sometime for Reſpect; *Habenda eſt ratio honoris*, Men ought to reſpect their honor. Sometime for Care; *Habenda eſt ratio rei familiaris*, Men muſt look after their houſhold-affairs. Sometime for Buſineſs; *Rationem habet cum terra, quæ nunquam recuſat imperium*, He buſieth himſelf with his land which never diſobeys him. Thus far *Calapine*. Sometime it is taken for Account, *Lu. 16. 2. Redde rationem villicationis tuæ*, Give an account of thy Stewardſhip. *Ratio*, in the third Definition of the fifth Book of *Euclide, eſt duarum magnitudinum ejuſdem generis, mutua quædam ſecundum quantitatem, habitudo*: Reaſon is a certain mutual habit, of two magnitudes of the ſame kind after their quantity: As when two Quantities of the ſame kind, two Numbers, two Lines, two Superficies, two Solids, &c. are compared one to another, according to their quantity, that is, accordingly as one is greater, leſs, or equal to another; this compariſon or mutual habit of one to another, was by Geometricians called *Ratio*. But now, I know not by what habit or cuſtom, *Proportio*, (which definition 4° *lib. 5. Euclid.* is, *Rationum ſimilitudo*; And definition 5, conſiſts in three terms at leaſt, for indeed it muſt conſiſt in four; for where it is in three, the *medium* is iterated twice, as what proportion four hath to ſix, ſix hath to nine, &c.) hath eaten the former quite up, and is only uſed.

Or take Reaſon thus: Reaſon is that by which men from given Principles, do rightly infer and deduce Concluſions. And Reaſoning is twofold, either *à priori*, or *à poſteriori*: *A priori*, from the cauſe, nature, and matter of neceſſary truths, to ſhew what effects follow from thence; and ſuch Propoſitions are called demonſtrative or ſcientifical, ſhewn and known from the Cauſes; ſuch are all Propoſitions in Geometry and Mathematiques: Or when the Effect is certain, and the Cauſe probable; and theſe are but probable Concluſions, ſuch as thoſe in Philoſophy and Phyſick. As I would know the reaſon why Summer is hotter then Winter, for ſo I find it to be; why, thus I reaſon: It cannot be from the propinquity of the Sun to the Earth, in Summer more then in Winter, for the Earth is but a Point in proportion to the Univerſe; beſides, the Sun is nearer to the Earth in Winter then in Summer, for the *Orbis magnus* is not Spherical or Circular, but Eccentrical and Elliptical, which is plain, becauſe the revolution of the Earth, or the Suns motion, is finiſhed in leſs time from the Autumnal Equinox to the Vernal, then from the Vernal to the Autumnal, and therefore nearer to the Earth in Winter then in Summer. It is not then from the Suns nearneſs to the Earth, which makes the Summer hotter

then the Winter; I find, that the higher the Sun rises in our Horizon, that is, the nearer it comes to our Zenith when at the Meridian, the hotter it is: I therefore probably conclude, that the heat in Summer is caused from the reflexion of the Sun; and the nearer the *radii* are reflected to right angles, the hotter it is; and the more obliquely they are reflected, the colder it is. Or as when a Physitian from the symptoms of his indisposed Patient, endeavors to find out the causes of his distemper, &c. this is reasoning *à posteriori*, from the effect to find out the cause: And men may reason from uncertain and false Principles, as well as true, but then always the Conclusions are so. And therefore all *Clavius* his Demonstrations in his Practical Geometry, and at the end of the sixth Book of *Euclid*, of the Quadrature of a Circle, though the Demonstrations be truly deduced, are uncertain, because it does not certainly appear, That from the imaginary motion of the two right lines he there speaks of, the Quadratrix line does cut the Base so, that the side of the Quadratrix is a mean proportional between the Base and the Arch of the Quadrant. And the Inferences and Conclusions which have caused so much confusion and distraction in these times, are drawn from feigned and false Principles. But in all true Propositions whatsoever, no reason can be given for the first grounds and principles of them, but only the will of the great Creator of all things, who therefore so made them, because it so seemed good unto him.

Of all the creatures upon earth, Man only is reasonable, for Man only contemplates God, and looks up to heaven, as thence expecting his beatitude. *Ovid. Metam.*——

Pronaque cum spectant animalia cætera terram,
Os homini sublime dedit, cælumque tueri
Jussit, & erectos ad sydera tollere vultus.

And a little after,

Sanctius his animal, mentisque capacius altæ
Deerat adhuc, & quod dominari in cætera posset,
Natus homo est----

Only Man, from universal causes, can by Reasoning (the faculty of his understanding and memory) rightly infer and conclude from them; only Man has freedom in his will of doing, or not doing, and may (if it be not his own fault) in all his actions, let his Will be informed by his Understanding and Reason: whereas other Creatures do all things spontaneously, that is, by an impulse of Nature, as they are moved by their objects or fears. Therefore only Man does well, and only Man does ill; and only Man is happy, and only Man is miserable.

Author. But our Author goes on and tells you *of a Tailor and a Mariner*, and I know not what indeed, and concludes, *That now not the nature of two men, but their words and what follows out of them, ground their being active and passive: This power of activity is in Latine called* Jus *or* Justum; *in English, Right or Due.* Our Author says before, *He that makes a promise to another man, puts himself and his Promissary into a rank of agencie and patiencie, upon a new score, to wit that of Fidelity and Negotiating.*

Observ. Did ever man huddle up so much insignificant bumbast as here is, or who in this world did from hence ever claim any Right or Property in any thing?

thing? Well, let us see then what we understand by *Right or Due.* Right or Due, is what any Man or company of Men claim to be his or theirs, excluding all their fellow-Subjects. And this Right, Due, or Property, we no where find to be given by God immediately to any Man or Men, but only the Land of Promise to the Children of *Israel*, the Portion of whose Inheritance fell to them by Lot. And by nature no Man has any property in any thing, more then another, if it be true as *Cicero* saies, *Privata nulla natura.* And *Horace*,

Non propriæ tellaris herum natura nec illum
Nec me, nec quenquam statuit.

What then gives it but the Law or Supreme Power of the Nation? for *Martial*, *Hoc lege quod possis dicere, jure meum est.*

The Seventh Ground.

Why Men desire to live in Community, and of the necessity of Government.

HEre our Author tells us First, *It is fit to understand why Men desire to live in Flocks and Multitudes.* Author.

Now would I know of our Author, what these Men are, and where to be found, who desire to live so? Or when did Men ever in the World in any place, either live, or desire to live so? Indeed it is a received opinion, that Man is born a living Creature, apt and fit for society; the Greeks called him ζῶον πολιτικόν, but indeed no Man does naturally desire the society, company or conversation of another Man, because he is a Man; and therefore Men do not, nor ever did live promiscuously in flocks and multitudes (as our Author saies) without subordination one under another; but in any the meanest and most contemptible Family that ever was, the company are not all alike to one another, as those are which live in flocks and herds, &c. But because no Infant can live, nor any Man live well without the help of another, naturally there is in every Man a solitude how to live, and so to live that his living be not a burden, or troublesom to him. Man does not therefore desire the company or society of others as men (for then he would desire the company and society of all men alike, of Good, of Bad, of Vertuous, of Vicious, of Servants and Vile, as well as Noble and Generous) but accidentally as expecting Profit, Honor, Knowledge, &c. from him or them with whom he consorts or associates himself. And therefore on the Exchange, in Faires, Markets, &c. Men do not Meet so as only to see one another, and to make up such a Herd, for then they would meet in other places as well as there, but that from their buying and selling and their exchanging of Merchandise, they may derive from thence profit to themselves. It is an admirable thing to see what a strange Ingenuity there is in those men, in acquiring those things from other places, which Nature (by the sterility, negation, &c. of their own Country, (for *Non omnis fert omnia tellus,*) hath *Observ.*

hath deprived them of, above those Men who abound in their own, and are careless to seek to supply their defects from otherwhere; as we see in *Holland* and *Zealand*, the Corn, Butter, and Cheese made in both those Provinces will not maintain the twentieth part of the Inhabitants: yet when did ever any man here in *England* see Corne, &c. dear, but we were supplied from thence? and what place in the World is there, which though above twenty times bigger then both those Provinces, is equal to them in shipping, and yet have scarce a stick of wood growing in either?

And men prefer that society wherein they suppose themselves honored and esteemed, before that wherein they think themselves slighted and neglected; and where Youth and Vigor do abound, there Men seek to them who will consort to them in Hunting, Hawking, Shooting, &c. as they affect this and that for their exercise: And vitious Men will endeavor to find out such society as will excite and accompany them in those vices to which they are prone: And because only Ingenious Men Philosophize, therefore Ingenious Men will not willingly consort themselves, but with them from whom they expect either to learn, or to be esteemed more Ingenious or more learned then any in the company; For naturally every Man desires that from conversing with another, he may draw more Profit, more Honor, more Pleasure, more Learning, &c. to himself; and when he has so done, he is so far from being satisfied therewith, that he betakes himself to solitarinesse how to increase what he has got into more, which no other creatures which live in companies doe, but when they have eaten up all in one place, seek where they may devoure it in another.

Author. Our Author goes on and tells us, *The first community is of Man and Wife,*

Observ. Our Author is the first man that ever I heard of who desired to hold his Wife in common.

Author. Our Author afterward tells us, *That the first Origine of Mens meeting and living together, is, that Men are most burthensome to themselves when they are alone, and seek company to divert themselves, so to elude the length of time.*

Observ. So that he who cannot tell what to do, but is a burthen to himself, may keep company with our Author so to foole away the time. I have seen many Chandlers Bills with all *Items* in them, but never saw any Section mangled with three *Firsts* altogether, but here in our Author.

Author. Now our Author is got loose from his Firsts, and arrived at the next, which is, *That God and Nature have so managed mankind, that no one has of himself as much as he desires, but regularly aboundeth in one kind of goods, and wants some other which his neighbour has.*

Observ. Now, who is he of whom our Author speaks? Why, one of his rational multitude (as he calls them by and by) before they have chosen a Trustee; what's here to doe? Why his rational multitude have all things in common one with another, no one abounds in any one thing more then another, but are like swine feeding, eating, and promiscuously herding together, or a kennel of Hounds devouring a dead Horse, who have it all in common, yet no Dog any more right to any piece of the Horse than another, but as he gets it and eats it.

Author. In the third place comes Fear: *For he that finds himself stored with those things*

things which he and others love, is subject to feare those whom he suspects able to bereave him of them, and so seeks company of friends for protection.

Now would I fain know of our Author, how this Man of his Rational Multitude came by these things, he so fears to lose? Why, has not any of his Multitude as much Right to them as he? Sure he must have surreptitiously cheated or stollen them from the rest of the Rational Multitude, for I cannot see what other Right he can have to them; It may be though it is not too Meaphysical a nicety for a Moral Treatise, and our Author can resolve you; and let the Reader read on and see, how he prefers the passion of Love before that of Feare, which he saies *agrees both with Philosophy and Morality,* Observ.

Now our Author got within sight of Land, there's now nothing wanting but that the Rational Multitude name their *Trustee, who ought rather to be a good and a wise Man, then a Foole and Knave,* and our Authors Government is perfect; yet for feare lest no Man but should understand it, in conclusion he tells you, *You see Government is naturally a Power of directing the Common Affaires of the Multitude, by a voluntary submission of the Communities wills to their Governors.* Author.

Now will I be burnt if ever any Man proclaimed himself such a Cockscomb as our Author does all along this ground; In his Three Firsts, then in his holding his Wife in Common, in his Care and Feare for the goods of the Individuals of his Rational multitude, who possibly could have none at all, and now by the giving up of theirs to the will of their Governor, which thing (*Ground* 4.) *he cannot see how it can be pleasing to God,* nay he tells you, *'tis like a Mans mangling himself, or* Origens *guelding himself, or* Simeon Styletes *chaining himself to a Hill, that he might not go thence for Gods sake:* But it may be our Author has a help at Mawe; for our Author *Ground* 8. saies, *It is evident by this Resignation of the Peoples will, the Magistrate receives such an activity and power, as he has explicated before, did arise out of a mans promise to his Neighbor.* So then, a Man may mangle himself, *Origen* may gueld himself, and *Simeon Styletes* may chain himself up to a Hill, though not for Gods sake, yet so far as it does arise from their promise to their Neighbor. But unless a Man should affect mistaking; I think of all men, our Author is most accursed to it; for now he makes his Rational Multitude a people, when they have made their Trustee or Supreme Governor; whereas, other Men alwaies understood by the people, them who had assumed the Supreame Power in them; As when a Man saies, the People of *Athens* or *Rome,* he meanes them in whom the pretended Supreame Power was, and by the Multitude he means, them in whom the Supreame Power was not. Observ. Pag. 241 Observ.

Now is our weary *Trojan* arrived at his wished shore, having sung his *Paan* and erected a *Trophy,* says, *No moderate and discreet person can doubt, but a Government so ordered, is both necessary and connatural to a rational multitude, and in a word, such as Humane nature requires, and is the best, if not the onely that suites to the disposition of freemen and prudent.* Author.

Yet sure, if after all this glorious boast, this Peacock but looks upon his feet, he will let fall his tail; for his *Second Ground* is, *That the nature of Man reacheth not to the perfection of Government:* But what does our Author here mean by *Freemen?* if by Freemen he understands men free to do what they list, then our Author leaves them as he found them, and has done Observ.

nothing

nothing at all; but if these Freemen be subject to their Trustee so far as he apprehends it fit and necessary for the good of the Commonwealth, then I believe we shall finde them as very slaves as any our Author *(Ground 9.)* makes: So that after all this ado, our Author has made a multitude of slaves, or he has made nothing at all.

And thus hath our Author endeavored to shew, why men desire to live in Community, *viz.* By having nothing common at all.

The Eighth GROUND.

Of the Authority given to an Absolute Governor, and of Under-sorts of Government.

Author. NOw comes our Author with a dog in a line, *his Absolute Governor tyed up to certain Laws and Limits, which he has no right to transgress.*

Observ. What is this our Authors *Absolute Governor?* Why, the *Roman Dictator* was worth ten of this; for he had power of life and death, of disposing of all Offices at his own will and pleasure, without the controlment of any either Senate or People, Consul or Tribune, and this power to continue during the exigence and danger of the Commonwealth. Yet so far was the *Dictator* from being an absolute Governor, that he was the while but a Minister of the Peoples; which was plain in *Fabius Maximus*, for though he were chosen *Dictator*, yet during the danger of the Commonwealth, the People made *Minutius* equal to him. And so was the *Athenian Archon*, who though chosen for Ten years and called a Judge, and chiefest of power in the Commonwealth, yet as *Bodin* observes *cap.*8. *fol.*80. *de repub.* was not the Majesty of the Commonwealth in him, but he a Provider and Procurator of the People, and was bound to give an account of his Government. And the reason why the *Dictator* and *Archon* were not absolute Governors, is plain, because this power was not immediately in them from God, but delegate and constituted from another; And any power that makes any thing, may alter it; for, *Unumquodque dissolvi potest eo ligamine quo ligatum est.*

*Plutar. in vita Fabii & Liv. lib.*22.

Well, but let us see what manner of beast our Authors *Absolute Governor* is. Why, our Author tells you, he is an *Absolute Governor, but restrained and tied up to certain Laws and Limits.* Which is a contradiction and impossible; for in being absolute, he is freed from all Laws and Limitations. And now I will tell our Author, that if his absolute Governor be tied up to any humane Limits or Laws, he has so little power, that it is impossible for him to protect and defend his rational people: For suppose the Laws he is restrained to, be as many as are contained in the body of the Civil Law, our Statutes, and all the Acts and Ordinances made since 1641. and twenty times more, yet would not this be sufficient for an absolute Governor: For all these are finite, and mens actions are infinite; and therefore Enemies may find out such ways to invade this free people, as this absolute Governor cannot find in his Laws, where he has power to oppose them;

and

and ſo this rational freeborn people muſt be left deſtitute, if any Enemy may be found who can outwit them, and find a way to oppreſs them out of the Laws and Limits which they have given their abſolute Governor. And who will deſire any greater advantage againſt another, then to have him look always one way? or what Enemy deſires more againſt another, then againſt ſuch a one whoſe abſolute Governor is tied up to certain Inſtructions, and thoſe known to themſelves? And Laws are things which muſt be *in eſſe*; And how can any man tell to day, what may happen to morrow? but Princes muſt to morrow, and next day, and every day, ſteer their courſe according as the wind and ſtorms, ſhoals and deeps, &c. repreſent themſelves, which no man can poſſibly foreſee.

Well, let us ſee what the reſtriction of any one thing in the *Supream Prince*, may bring upon himſelf and Subjects? Let us look upon a *King of England* after the Act of Parliament, *De tallagio non concedendo* (an Act of Parliament, is the Act of the King in Parliament, As when the Lords and Commons preſent any Bill to the King, and he paſſes it; this is an Act of Parliament, which is no more a Law of the Lords and Commons, then the Laws paſſed at the Petition or Rogation of *Cælius, Caſſius, Sempronius, &c.* were the Laws of *Cælius, Caſſius*, and *Sempronius.*) And let every King expect, that whatſoever the Subject can get of the King *by hook or crook*, he will hold that as faſt, as the King ſhall any flower he leaves in his Crown.

Well then, if *Edward* the Firſt will not paſs this Law, he gets not a groat of his Subjects in *England* towards the relief of his oppreſſed Subjects of *Aquitain* in *France*, which Sir *Edward Coke* in his Comment upon this Statute obſerves.

Well then, the *Scots* in the year One thouſand ſix hundred and forty (having tranſgreſſed all Laws of God and Humanity, as well as the Borders and Bounds of their own Countrey) raiſe Arms the ſecond time, and make an invaſion upon us, and ſeiſe upon *Berwick* and *Newcaſtle*; (but though the *Kings* hands were tyed up, yet the Divine Vengeance of Heaven ſhall overtake them and their Countrey, by a hand they could ſo little fear, as I believe few of them knew whether there were any ſuch, or no.) And now oh you! who have not forced all mankinde from Humane breſts, come and ſtand amazed with horror for the moſt deplorable condition, of the moſt Pious, the moſt Religious, the moſt Juſt, the moſt Chaſte, Vertuous, and Sereneſt *Prince*, that ever ſwayed the Engliſh Scepter, and not to be paralel'd by any Countrey whatſoever?

The *Scots* having invaded this Nation to treat with them a ſecond time, was too too much an indignity for their Natural Soveraign; beſides, it was an affront not to be endured by the Engliſhmen, That their Countrey muſt be made a prey to ſuch Locuſts and Caterpillers, whenſoever they will pretend grievance in *Kirk* and *Diſcipline*: To reſtrain them by force, it could not be without raiſing money; *By this Statute the King*, they ſay, *can raiſe none, but by Parliament*; and to call a Parliament in this mad conjuncture of times, was judged by himſelf and Council, to be a means to increaſe the power of the *Scots*, by the Parliaments joyning with them, to the endangering himſelf and his Poſterity.

Well then, what is to be done? what ſtand ſtill and look on, while theſe hungry Vermine devour and make a prey of his afflicted Subjects?

No,

No, the King to make his goodneſs appear above his own danger, calls a Parliament; where not deceived in his expectation, the *Scots* and they are *Simeon* and *Levi* ſtraight, ſworn Brethren; and the firſt thing agreed between them was, That Humane Blood muſt be offered up to them; (a preparative to a greater Draught) nor muſt *Strafford* ſuffer by an ordinary way of Judicature by his Peers, but that the King may be involved in the ſame Crime with themſelves, he muſt die by Act of Parliament; and then having made the King to diveſt himſelf of all poſſible power to defend himſelf, when ever they will ſtrike him, they give the *Scots* Three hundred thouſand pounds to be exported out of the Kingdom, becauſe they had made a prey, and devoured the goods of their fellow Subjects in the four Northern Counties, which (forſooth!) theſe good Saints call *Brotherly Aſſiſtance.*

See, oh ſee here, O my Countrymen, the Aſſertors and Avengers of the Honor of the Engliſh Nation! Theſe are the Noble Patriots of their Priviledges, I am ſure not of your Liberties! Theſe are the glorious Reformers of our Church and State! Theſe are they who in order to ſo many Proteſtations, Declarations, Swearings and forſwearings, have made *Charls* a more glorious King then any of his Predeceſſors, more feared abroad and more renowned at home!

And now tell me, whether you had not better at firſt have given your pence and your two pences, then paid your pounds and forty ſhillings ſince, you knew not for what. Nor was our caſe much unlike the caſe of the *Conſtantinopolitans*, who alleaging Poverty and Priviledge in oppoſition to their Safety and Defence, became a prey to the *Turks*, 1453. their moſt mercileſs enemies, who put them all to the ſword; the *Turks* themſelves wondering there ſhould be ſo much wealth in the World, as was found in the ſacking of this one City.

The Ninth GROUND.

Of Slavery, and the lawfulneſs of it.

Author. HEre our Author tells us, *We muſt firſt look into the notion of Slavery, which ſignifies a Subjection to command in all things, and that meerly for the Maſters profit.* Well, I will not quarrel with our Author about the notion of Slavery, but tell him, he miſtakes it in all his ſpecifications of it: For his firſt, *It is*, he ſays, *clearly againſt nature for a man to ſubmit his will ſo far, as to renounce his eternal bliſs.*

Obſerv. This is out of his notion, and is ſo monſtruous, as it is not imaginable any man ſhould do it but Witches; and any man may chuſe, whether he will do it or not, for no mans will can be compelled.

Author. The like he conceives of *Subjection to be killed or maimed cauſeleſly, nay, or to be ſo penuriouſly abuſed, as to have no content in life*; and the reaſon he gives, is, *It is evidently againſt the inclination of nature, to conſent to the loſs either of life, or the profit of life, which is either to be well in this world, or the next: And therefore it cannot be conformable to nature, to renounce either,* (ſo then

then a man must not by our Authors rule, renounce any depraved affection or appetition in him, if it conduces to his profit in this life) *especially the quiet in this world, being the means to gain bliss in the other.*

And so our Author hath shut out of doors all suffering for the testimony of a good Conscience, because the quiet of this world, is the means to gain bliss in the other. *Observ.*

Nor does it scare our Author, he says, *to cast his eyes upon so many holy men and women, as have put themselves voluntarily upon penurious and painful lives, because they enjoy the fruit of contemplation, and sweetness of Conscience in expecting a great reward for what they did: But for a man to renounce the content of this, who either thinks not of another, or at least hopes nothing out of his resignation, this must of necessity be extreamly irrational, and against nature.* Author.

Why, if our Author had learned thus much out of the Poet, *Observ.*

Oderunt peccare boni, virtutis amore;
Oderunt peccare mali, formidine pœnæ. *Horace.*

He needed not to have thought it so irrational; for if the love of Vertue will not make men do their duties, the fear of stripes and halters must, or our Author will not get Paper to write his *Grounds of Obedience and Government* upon. Our Authors next specification, is no more then every servant ought to do.

Now let us see what *servitus* or *mancipium*, or servitude is, and who are properly Slaves, or as we use to term them, Vilains.

Slaves happen (*Bodin* says) to be so five ways: Either by birth, as the posterity of the Parents who are so; or accidentally, as prisoners taken in war; or thirdly, those who for some offence or debt are condemned to slavery, either for years or life; fourthly, they who voluntarily make themselves so; and fifthly, those that are sold by Theeves and Pirates, are for the price paid slaves, to the buyers: But whether this last be truly accounted slavery, is disputable, that is, Whether such buyers may use them as slaves or no. See more hereafter, *Cap. Domestical Power.* *Bodin, cap. 5. lib. 1. de Repub.*

Now Slaves have nothing properly, but whatsoever they get is their Lords, who may sell them or give them away at their pleasure, and have power of life and death over them. (Here in *England* the Lords power over their Vilains was restrained, neither might the Lord maim his Vilain; for though the Vilain could not recover any damage against his Lord, yet after Attainder the Lord was finable to the King) See *Litt.* 194. And the Neife (who is the Vilains Wife or Daughter) might have an appeal of Rape against her Lord, *Litt.* 190. But this not being a condition for any one who bears the Image of God upon him, God did restrain it, *Levit.* 25. 39. to them who were not *Israelites*, or Proselytes onely: Wherefore I conceive that neither *Mahometans*, *Jews*, or *Christians* (all acknowledging the Moral Law) do not make Slaves of any who are of their Faith and Religion from this ground; neither do I understand how the use of Vilains used with us heretofore, can be justified, if they were *Christians*; for no question *Christianity* makes not men in a worse condition in this world, then if they had been *Jews* or *Turks*. What difference the *Romans* made between Slaves and Libertines, and what Manumission is, and how many ways Slaves become free, read *Bodin de Repub. cap.* 5. *lib.* 1. And of Manumission or Enfranchising

franchising of Villains, read *Littleton*, and *Com.* of Sir *Edward Coke* thereon, *Cap. Villenage.*

Author. And now our Author tells you, *how a Nation may enslave it self by its too much wit*; and most prudently and wisely *takes care that it be not our case.* And so goes on very prettily in Questions and Answers; as, *Whether any Nation be by nature born to slavery?* of *Joseph, and the Nation of Egypt*; of *a Nation and Nature, and how like Nation sounds to Nature,* (Gens to Natura) and at last concludes, *Out of this Conclusion it is is easily seen, that the* Turkish, Muscovitical, *and other whatsoever Governments setled upon this principle, That the goods and lives of the Subjects are the Princes, not to defend (as our Laws go) but to dispose at will, &c. neither do, nor can breed any obligation of Obedience in the Subject, more then of Fear, and present Utility.*

Observ. It seems then, neither Fear nor Utility may be expected from our Authors Laws, with which his absolute Trustee is impowered. And what other means (besides the law of God which commands us *to be subject to the higher Powers,* Rom.13. and S.*Peter*, 1 Ep. cap.2.13. *To submit our selves to every ordinance of man for the Lords sake, whether to the King as supreme, &c.*) can any Governor propound to his Subjects for their conformity to his Laws, but utility and reward for their obedience, and fear of punishment for their disobedience?

And here our Author calls them *Tyrannical, &c.* What's the matter? Have they too much power? They have no more then God hath given them; and in having less, they should soon actually have none at all, and Aristocraties and Democraties assume as much; Do they eat too good meat, or wear too good clothes? Why sure Nature intended that the best things should be used, and who better use them then the *King?* What, are many of their Subjects poor and miserable? 'Tis not their fault, 'tis the curse of God upon the ground for *Adams* sin in not giving up his will to Gods command, that in sorrow man should eat of it all the days of his life, *Gen.*3.17. And if any of these Tyrannical Governors (as our Author calls them) should divest themselves of all their power and greatness, yet there would not be fewer poor laboring men: And let our Author shew me in any of these Goverments half so many Slaves and miserable men, as I will shew him have been under the *Romans* and other popular States. Nor need any man in any of these be a Slave, if he will become *Renegado* to his Faith and Religion; whereas under the *Romans, &c.* they were necessitated to it at the will of their Lords. Will they, if they fear the power of any man to grow too great, use means not fully warrantable in the known Laws, either to make it less, or none at all? why, the *Portian* Law prescribed only banishment to the Citizens of *Rome,* in any offence; yet *Cethegus, Lentulus, Longinus, &c.* were put to death for being agents in *Catilines* Conspiracie. The *Athenians* would by their Ostracism banish any man that they but suspected would grow too great. Will they make unjust war without any cause given? why, the *Romans* undertook the protection of the *Mamertines,* (*Livy lib.*16.) a company of * Hellhounds who had murdered their Hosts the *Messenians,* and took possession of *Messana* against the *Carthaginians,* which was the ground of the first *Punick* war. And when *Greece* was divided amongst *Athenians, Lacedemonians, Arcadians, Corinthians, Achaans, &c.* when was there any faith or troth among them, but the weaker still bandying against the stronger, till they were all brought

* Sir *Walter Raleigh*, book 5. ch 3.

in

in ſubjection to *Philip* the father of *Alexander*. Will they put men to death upon no ſufficient proof of crime againſt them? why, what proof of ſuſpicion of crime was there againſt the moſt excellent and divine Philoſopher *Socrates*? or againſt the victorious Athenian Captains at the battel of *Arginuſæ*? Will they not reward their good Servants and Captains? what reward had *Camillus*, *Coriolanus*, both the *Scipio's*, *African* and *Aſiatick*, *Themiſtocles*, *Alcibiades*, *Hermocrates*, the noble Syracuſan, *Dion*? *&c.* Will they take ſevere revenge upon their enemies, although it may be they had no juſt occaſion given? The poor *Melæans*, who were content not to have medled in the wars between the *Athenians* and *Lacedæmonians*, and no occaſion of war againſt them but the will of the *Athenians*, after they were forced to yield up their City at diſcretion, were all of military age ſlain, the women and children made ſlaves, and *Melos* made a Colony to Five hundred of theſe curſed Demagogues, as you may ſee at the end of the 5. book of *Thucidides*. And ſee *Plutarch* in the Life of *Sylla*, what came upon the *Athenians* who firſt called the *Romans* into *Greece*, when *Sylla* took *Athens*. Will they take ſevere revenge, where (as our Authors calls it) *the obeyer does not underſtand that it is his own profit which the action aims at*, (that is to ſay, when the Subject will not obey?) Let him ſee the fate of the *Capuans* in *Livy lib.* 26. and of the *Mytileneans* and *Scionians* in the 3. and 5. book of *Thucidides*. What, do they not govern their Subjects in peace? Where was there ever any ſuch diſſention and confuſion as in Democratical and Ariſtocratical States? And the *Grecians* have ſeen leſs war and diſquiet two hundred years together under the *Turk*, then ever they ſaw in three years, when it was divided into ſo many Ariſtocraties and Democraties.

See Dio Siculus Bib. lib 13. *Where the Syracuſans, before* Dionyſius *his time, made it their paſtime to reward the vertue of their worthieſt Commanders with death or baniſhment. And* Nicias *loſt the whole Athenian Army in Sicily, conſiſting of above forty thouſand men, for fear if he had preſerved them, he ſhould have been proſcribed or put to death by the Athenians.* Thucid. *lib.* 7.

But our Author will not endure that the Subject ſhould be protected in his life and eſtate by the Law of theſe Tyrannical Governors. Why, what greater obligation of obedience can there be to Government on the Subjects part, then that he is thence protected in his life, and from thence holds whatſoever may be called his? And ſince there never was, nor can be a fourth ſpecies of Government, how much better is it for a Subject to obey one Individual Prince, then by an imaginary liberty to make his obedience to many? for, *Quanta molis erit, dominis ſervire duobus?*

Well, but let us compare one of theſe Tyrannical Governors with our Authors *Abſolute Governor*; (For though our Authors *Abſolute Governor* be a Mungrel, extracted from equivocal generation, and ſuch a Beaſt as Nature never intended, and (*Ground* 8.) tied up to certain Laws and Limits of the People, yet for all that, our Author can have a courſe too with his *Lyciſce*, though tied up in a line: But then it muſt be agreed between our Author and his *Lyciſce*, that they ſay it be for the good of the People; and then (*Ground* 11.) they are his Laws, (alack the while, what is become of the Peoples Laws! &c.) And (*Gr.* 13. *p.* 101.) *The lawfulneſs of a Soveraign Commander is no other, then that he truly thinketh to be for the good of the Commonwealth.* Author.

So now, Caſting of Dollars, and Coining of Dollars, is all the difference between our Authors *Truſtee*, and one of theſe *Tyrannical Governors*; the ſame thing differently called by the Author. *Obſerv.*

The Tenth GROUND.

Why a Man is to hazard himself for the Common good?

INdeed herein (for ought I know) may be much Treasure and Learning; and there let it be, for I never intend to look into it.

The Twelfth GROUND.

Who is such a Governor, and the Subjects Duty towards him.

Author. *WE have long talked of a Supreme Governor; it is time we should point him out, that he may be known. And since all agree that there are three sorts of Government,* Monarchy, Aristocracy, *and* Democracy; *when they are simple, there can be no doubt who is the Supreme Magistrate. Now mingled they may be, either continually, as when all parts mixed are so often engaged that their Authorities run joyntly, or else some are continual, others but at certain terms.*

Observ. Our Author has talked long indeed, and to very little purpose of his Supreme Governor, and now he thinks it high time to point him out, that he may be known; and he thinks he has already so sufficiently described him, that any Ingenious Rational Man may easily discern him, and so takes leave of him, and tells us, All agree there are three sorts of Government, *Monarchy, Aristocracy*, and *Democracy*, and that they may be mixed: May they so? Then sure they may be more then three, *viz. Monarchy, Aristocracy*, and *Democracy*: *Monarchy* mixed with *Aristocracy*, *Monarchy* mixed with *Democracy*, and *Monarchy* mixed both with *Aristocracy* and *Democracy*: *Aristocracy* mixed with *Monarchy*, *Aristocracy* mixed with *Democracy*, and *Aristocracy* mixed with both; and so *Democracy* mixed with *Monarchy*, *Aristocracy*, and both. So that either these three sorts of Government will admit of no mixture, or else there may be above three sorts of Government.

Author. The next stumble (for steps our Author makes none) is, *What* Monarchy *is, if it be mixed* (but if it be mixed, how can it be *Monarchy*? for *Regia Majestas est indivisibilis*) *with* Aristocracy *or* Democracy, *so that they be continually joynt Actors, the* Monarch *is but a Servant, and the other part the Master.*

Observ. Could any Man give a name to this Government, it must be either Aristo-monarchy, or Demo-monarchy; in plain English the chief Government of one Man alone, or the People-Government of one alone; but this is, our Author saies, but only when they are joint Actors, and then the Monarch is but a servant. Did ever any Man talk so senselesly, as if he understood neither words nor meaning?

meaning? for Monarchy is the Government of one Perſon alone, which is impoſſible if it be ſubſervient to the Government of any Court or People, unleſs our Author can make a Court or People not conſiſting of Men. Nor is the Inſtants he gives of the *Italian* Dogs, and *Lacedemonian* Kings, any thing to the purpoſe; for who in the World ever heard of the Monarch of *Venice*, *Genoa*, or *Lacedemon*? It is true indeed that *Euriſthenes* and his Brother *Procles*, the Sons of *Ariſtodemus*, Grandchildren of *Cleodæus*, Great Grandchildren of *Hyllus*, & *Adnepotes* of *Hercules*, were the firſt two Kings of *Lacedemon*, *Anno mundi* 2848. and out of their two Families called the *Eurypontidan*, and *Agidan*, the Kings of *Lacedemon* did joyntly reign, until that about the year of the world 3777. *Eurydamadas* was the laſt of the *Eurypontidan* family, deſcended from *Procles*, and almoſt at the ſame time *Cleomines* the laſt of the *Agidan* family, deſcended from *Euryſthenes*, was overcome by *Antigonus* King of *Macedon*. Yet could not this Government be properly called *Monarchy*, but *Duarchy*.

Nor leſs childiſh is his mixture of *Ariſtocracy* and *Democracy*, for theſe will as little admit of mixture as any other. But ſee what a wiſe obſervation he makes, *viz. The quarrel to be more ballanced, becauſe the Government is divided in its ſelf, and therefore dangerous.* Author.

So then, the mixture of *Monarchy* with either or both the other Governments, makes no diviſion; or to what purpoſe does our Author take notice of this dangerous mixture only in theſe two? and then our Author makes no doubt, *but if Ariſtocracy gets power enough, ſhe is in poſture of Supreme Authority.* Very wittily obſerved, and a very great doubt wiſely reſolved. *Obſerv.*

Monarchy *and* Democracy *can hardly be ſo mixed, that* Democracy *be perpetual, and* Monarchy *by ſpurts: for that is not* Monarchy; *the ſaid Monarch being not long enough in Power to be accounted a ſetled Magiſtrate, as we ſee in the* Decemvirs, Tribunes *and* Dictators *among the* Romans. Author.

So then, here is *Monarchy* mixed with *Democracy*, and not mixed; and why not mixed? becauſe forſooth it is by ſpurts, and not long enough to be accounted a ſetled Magiſtrate; no, how long then ſettles a Magiſtrate our Author no where ſaies; but if he had learned a very little Logick, he might have known that *majus & minus non variant ſpeciem*, and a Magiſtrate of an hours ſettlement, is as much a Magiſtrate, as if he had been one never ſo long. And then ſee the wild inſtance of the Man, for although in the *Roman* Dictators there were ſome ſhadow of *Monarchy*, yet in the *Tribunes* being two, and the *Decemvirs* being ten, there could be no poſſible colour thereof, unleſs our Author by his Logick can make two Men and ten Men to be but one Man alone. But *ſtultum eſt ſtolidas opiniones accuratius refellere.* I will referr my ſelf to the cenſure of any Ingenuous and Judicious Reader, that has patience to read any one Ground in this whole book, if there be more ſence or reaſon in it, then in this, and the foregoing Grounds of this Mans *Obedience and Government.* *Obſerv.*

The

The Thirteenth GROUND.

Of the Qualities of Laws and Commands in respect to Obedience.

HE that can find any good in this Ground of our Authors, let him take it for me, I will not hinder him.

The Fourteenth GROUND.

In what conditions the Subject may resist Government.

Observ. WE left our Author *Ground* 7, wondring at a *Jack-a-Lent* of his own making, and here we find him throwing stones at it to beat it down again; as who indeed may so well marre it as he that made it? But why does our Author say, the Subject *may resist?* for resistance is usually taken in an ill sence, as when the subordinate resists his superior? Why? if his absolute Governor has no power but what those Laws which the People (as he calls them) gave him, if he does transgress, the People might remand him to his Duty, and if he does not obey, he resists the People.

Author. Then our Author saies, *It is evident, if it be rational to resist Government, it will be lawful also to break and remove it,*

Observ. So that now all the fat is in the fire; all that our prudent Architector has been all this while a building, is blown away with this small wind: It may be a question hereafter where our Author shall next fetch his fire, now his *Ignis fatuus* is out. *Plut.* in the life of *Themistocles* recites, That *Themistocles* making himself merry with his Sons insolent usage of his Mother, and his Mothers like usage of his Father, was wont to say, his Son commanded all *Greece*: For the *Athenians* commanded the other *Grecians*; He commanded the *Athenians*; his Wife, him, and his Son commanded his Wife. How much greater power had our Author in this Government than *Themistocles* his Child had over the *Grecians?* For in all our Authors Government you shall find two degrees of Comparison above the superlative, *viz.* the peoples Power over their supreme and absolute Governor, and our Authors supreme supremest Power, who has a Power when he will, to make what he list the Peoples Laws, which shall oblige and tie up their absolute Governor; And when the toy takes him, they shall be the Governors Laws; And *Ground* 11. latter end, *No supreme Magistrate can be bound to any Laws, contrary to* (what our Author or Governor shall call) *good Government.* And now who would think so wise a fellow as our Author, who in this Government had such a monstrous and most unlimited soveraignty, should (by shewing his power in giving his

his Rational multitude liberty to dissolve it) lose it all in an instant? sure this *Icarus*, if he neither drowns, nor otherwise kills himself in the fall, will only rise up again to hang himself?

Well, but let us see whether upon our Authors principles this Government can be dissolved, or be in the power of his People or Rational multitude. All Men who have written of the Cause and Nature of things, have put a difference between Natural, and Voluntary or Rational causes or things. Natural causes or things are those which proceed immediately from God, and are above the Will or Reason of Man; Voluntary causes or things are those which do not immediately proceed from God, but from the Will and Reason of Man. But *ex Hypothesi* this Government, *Ground* 7. *page* 48. is *connatural*, and *Ground* 8. *page* 50. *Natural*; and therefore this Government is superior to the Wills or Reason of the People, and cannot be by them dissolved; but the resisting of it is a violence upon Nature, and not only Irrational, but Immoral and unjust.

Thus have we seen our Author make a Government, and thus have wee seen our Author marre his Government. Let him tell us *Ground* 15. *Wherein consists the Liberty of the Subject:* Ground 16. *Of the dispossession of a Supreme Governor and his Right:* And *Ground* 17. *Of a Governor dispossessed*: (only because our Author, *Ground* 17. *tells us that Pope* Urban *the eight was an Intelligent generous Prince, and well-versed in publick Government, and he made a decision, that after five years quiet possession of an Estate, the Church was not bound to take notice whether the title were lawful or no*: I will tell our Author, that if Pope *Urban* might not take notice after five years, who is the lawful Governor, yet Pope *Pius* the fourth after above twice the time declared by Pope *Urban*, might take notice of it, as you may see *Hist. Con. Triden.* 423. and 443. So then Pope *Pius* may do that which Pope *Urban* is not bound to do) or say what he will for me, I am content if after all this pains on my part, I shall not (in the judgement of wiser and more discerning Men then my Author or self) have made my self like our Author in thus far answering him to his *Grounds of Obedience and Government.*

Ob-

OBSERVATIONS ON Mr. HOBBS *De Cive*.



Observ.

His first Axiome or Principle he begs, both in the Preface, and second Article of the first Book *De Cive*, is, *That the beginning of Civil Society, is from Mutual Fear*. Yet in his Preface, and second Annotation upon this Article, *He fears that some men may deny it; yea, it is true, that very many men do deny it.* This therefore being required for a Principle, and the first Principle, and by consequence not to be proved, but to prove all that may be inferred from it; and since that he grants that very many do deny this Principle; Then by very many men must the whole body of *De Cive* be rejected: For, *Contra negantes principia non est disputandum.*

But if men will not grant this Principle, (in the *Pref.* and *Annot.* above-said) he will prove it so, that he will make them ashamed of it; and how, think you? (It will be somewhat odd, sure, to prove Principles.) He tells you, *That all Cities, although they be at peace with their neighbors, yet keep Garrisons and Soldiers upon their Frontiers: And that when men go to sleep, they shut their doors; and that men taking a journey, do it with a sword; and that men treat usually, before they fight.*

Observ.

All Science, all Learning, and all Reasoning whatsoever, by the authority of *Aristotle*, is begotten from pre-existing Principles which prove the Science and Learning, but by the judgment of *Aristotle* and all Philosophers, and men in their wits, no Science, Learning, or Reasoning, can prove the Principles. Besides, it is a contradiction, to say any thing is a Principle, which can be proved; for that which proves it, is prime and a principle to it. Would any man now think, that these Critiques and pre-

tended

tended Masters of Reason had ever read one line in Logick, or *Aristotle*, who go about to prove Principles, by such silly things, as have scarce any verisimilitude in them?

Nor does he only make Fear to be the prime cause of all Humane Government and Civil Society, but also (*chap.16.art.1.*) he makes it the cause of all Religion, and Worship of God.

As if that men were not obliged to submit to higher Powers, *not only for wrath*, (take it in what sense you will, either fear of the wrath of the higher Powers, or mutual fear of the wrath of other men) *but also for conscience sake*: And that God were not in gratitude to be worshiped and served by ingenuous men, because he is good, and created them intellectual and reasonable creatures; but only by a servile fear of his Judgments, from whence only vile and vitious men seem to, but never truly serve or honor him. A pretty institution of Religion and Government for the Men of *Bedlam*, and Wives of *Billingsgate*. *Observ.*

He divides the whole Treatise into three titles, viz. *Liberty*, *Empire*, and *Religion*. Under the title of *Liberty*, he speaks of men as they are in a state of meer Nature, *viz.* of a state of men before they have by Pact given up their natural right to one Person, or one Court or Company of men; so that the will of this Man, or Court, shall be the will of all of them; and this he calls *cap.5.art.9. Civitas*, or *Persona civilis*.

If Mr. *Hobbs* had by a state of Nature understood such a state as S. *Paul* does, *viz.* of men who have only the Law of Nature, and not Gods Divine Law supernaturally revealed in the Scriptures, to be their rule and guide; and that men in such a state not having the Law, may by Nature do the things contained in the Law, (for this Law is ingraven in the hearts of all men) he should have disputed without an Adversary for me. But when he makes all men *Jure naturali* (which is superior, and the cause of all Laws of Nature) to be equal, and in a parity of condition, and every man by his own natural right to have a power over every man, and to kill and destroy them, whensoever it seems good unto him, and yet without any sin; and that this State is only to be cured by the Laws of Nature of his own making, (although he would have them to be Divine Laws, and contrary to Natural rights) is such a monstrous Paradox and absurdity, as I wonder any Ingenuous man should assent to it. *Observ.* Rom. 2. 14.

Under the title of *Empire*, he is not less wild and extravagant in his concessions to the thing, be it *King* or *Court*, created by *Do* or *Dedi*, and not *Dabo* or *Faciam*: For he makes it not only Soveraign Judge of all Ecclesiastical, as well as Civil causes; but also impossible to command any thing contrary to the Law of Nature. Yet he makes the Law of Nature, the Law of God; and this Creature of creatures to be so infallible, that it is impossible to command any thing contrary to it.

It is not worth the examining, what he would have under the title of *Religion*; for men say, the man is of none himself, and complains (they say) he cannot walk the streets, but the Boys point at him, saying, *There goes HOBBS the Atheist!* It may be therefore the reason, why in all his Laws of Nature, he allows no place for the Worship and Service of *GOD*.

But it is time to examine the particular Articles, upon which this Body *De Cive* is built.

1. His marginal Note upon *Art.*3. *Cap.*1. is, *Homines naturâ æquales esse inter se.*

Observ. There is no one Proposition in the world more false then this, nor more destructive to all faith, and truth of Sacred History. For whereas he says, that by nature Men are equal to one another; if the Scriptures be true, *Cap.*10. *art.*3. that God made *Adam* an Universal Monarch (as he says) as well over his Wife and Children, as other Creatures; and that since *Adam*, God did never create any Man, but the species of Mankind was continued by gene- *Cap.*3. *art.*18. ration, and that (as he says) Primogeniture is preferred by the Law of *Cap.*4. *art.*15. Nature, (which *Cap.*3. *Art.*29. is immutable;) then it is impossible that since *Adam* any two Men in the world can be equal, where God does not make them so.

*Observ.*2. Indeed, if Mr. *Hobbs* had been an *Athenian*, who stiled the Men of *Attica* αὐτόχθονες, Men of the same Land; or a *Peripatetick*, who held that Men, and the other things of the World, were from Eternity, as well as the World; or an *Egyptian*, who held that (from the example of divers creatures generated out of the river *Nile*) Men at first were generated from equivocal generation, or that Men had sprung out of the ground *fungorum more*; there might have been some small semblance for his opinion.

2. His Argument to prove the Natural equality of all Men, is, *Æquales sunt, qui æqualia contra se invicem possunt: At qui maxima possunt, nimirum occidere, æqualia possunt: Ergo, Homines natura æquales inter se.*

Observ. His minor Proposition is no where proved; and I am sure, contrary *Gen.*9.6. to what God says, *Whoso sheddeth mans blood, by man shall his blood be shed, for in the image of God made he man.*

*Cap.*1. *art.*10. 3. *Nature hath given to every Man a Right to all things.*

Observ. What thing is mine *naturali jure* (as he says, or *lege naturali*) is mine, so that it is impossible it should be aliened, or made anothers by any act of my will, or the will of all the men in the world; For natural causes do not depend upon voluntary humane actions; and therefore the natural right which Nature has given to every man, remains still with every man.

*Annot. art.*10. 4. *Filium in statu naturali intelligi non posse.*

Observ. And therefore from *Adam* to our Saviour, could there be no such natural state; For S. *Luke*, *cap.*3. gives a Genealogie of *Adams* sons, and sons sons, to our Saviour: And since, I do not think Mr. *Hobbs* can shew, that ever there was such a state in the world.

*Art.*12. 5. *The state of Man in Nature, is hostile.* And *cap.*8. *art.*10. he says, *Men in the state of Nature may kill one another, so often as it seems good unto them.* And therefore he must invent and seek to make himself in a better *Art.*15. *cap.*1. condition then God hath made him, and that (forsooth) is, *by seeking Observ.* *Peace*, which he says, *is the first Law of Nature.*

Is it not strange, that a thing invented, and made by the wit and will of Man, and that contrary to the state and condition in which God hath made Man, should here prove to be a Law of Nature, which is the Law of God?

Observ 2. And is not more strange, that *God hath made Man upright, and he hath Eccles.*7.27. *sought out many inventions*; and yet Man should have need of Mr. *Hobbs* his help, to invent, and make him in a better state then God hath made him, *Art.*15. or else he says, *his conservation cannot be long expected?*

Neither

Neither is it possible in such a state where all men may kill one another, and where all things are alike and common to all men, that men should make any pacts or contracts one with another: For besides, that where men have nothing proper, there men cannot make pacts, or contract for any thing; also where there is no precedent humane Law obliging, there cannot any man be obliged or bound to any thing by his pact or contract; for to be bound, is in relation, and must presuppose something which does bind; but if nothing binds me but my Will, (which is a contradiction) I may unbind me when I will, for my Will is free. *Observ.* 3.

I deny that any man, or any company of men, can will any thing to be a Law to themselves: For, *Omnis potentia activa est, principium transmutandi aliud.* And therefore the act of no mans Will, can have a power or obligation upon himself; and by consequence cannot any man, or company of men, will, or make another who shall give them Laws; for, *Nemo potest transferre id in alium, quod ipse non habet.* *Observ.* 4.

6. *Legem naturalem esse dictamen rectæ Rationis.* *Cap.* 2. *art.* 1.

Wold any man think that these Critiques and pretended Masters of Reason, did either understand Reason or Logick? If *Lex naturalis* be *dictamen rectæ Rationis*, I ask of Mr. *Hobbs*, what is the reason of it? If it be a prime cause or principle, then by the authority of *Aristotle Eth. lib. 6. cap. 3, & 6.* does it constitute the Ratiocination, and no reason can be given of it; for, *Mens sive Intellectus sit principiorum, Scientia verò cum ratione conjuncta, Dictamen* (therefore) *rectæ Rationis*, cannot amount higher, then rightly to infer or conclude from prime causes or principles; and by consequence cannot be the Law of Nature, or God, if Mr. *Hobbs* cannot give something prime or superior to it, from whence it may be inferred or deduced. And if the Laws of Nature, or God, be the dictates of right Reason, then are the Laws of God the Creator, subject and inferior to the faculty of a creature; which is not only absurd, but most monstrous and blasphemous. *Observ.*

7. But because to bind, and to be bound, cannot be in the same thing; he makes *obligans*, him who accepts the will of other men, and *obligatus*, him who does will, and so forsooth is become bound by his own will. *Cap.* 2. *art.* 9. & 13.

And had not this man more need to learn his Grammar better, (who makes *obligans* the patient, and *obligatus* the agent) then undertake to write Elements Philosophical *De Cive?* whereas the contrary is true in both; for *obligans* is he who doth will, and *obligatus* is he who accepts or receives the will of another. *Observ.*

8. *The action of two men, or more, mutually transferring their Rights, is called a Contract.* *Cap.* 2. *art.* 9.

There was never, I think, two more gross mistakes commirted in so few words. For first he takes the fulfilling of a Contract, for the Contract it self: A Contract is the mutual stipulation of two or more, that they will do or give; and the mutual transferring of what is contracted for, fulfills and adnulls the Contract; and there have been, and will be infinite Contracts, where there is no transferring; nay, where there is a mutual transferring, there can be no Contract. Secondly, no Contract can be of Rights, but only of things in possession: The act of two or more mutually transferring, is the act of two or more giving, not contracting. *Observ.*

In every Contract, either both (statim) *perform that which is contracted for; or one performs, and the other is credited; or neither perform.* *Ibidem.*

Observ. So that the Contract, and the Performance, are diverse things, which immediately before he confounds. Nor can his *statim* at all help him; for the Contract must precede, and the Performance be subsequent, it matters not how much, or little time; for, *Majus & minus non variant speciem.* Secondly, If one may perform, and the other be credited, or neither perform, then there may be Contracts, where there is no mutual transferring; which is absurd by his definition.

Where both soon after, statim, *perform, there the Contract so soon as it is performed, is fulfilled or finished.*

Observ. Sure he takes great virtue to be in *statim,* which makes a Contract, and the annulling, and fulfilling of a Contract, to be the same thing.

Where one, or both are credited, there he, cui creditur, *promiseth that he will afterwards perform, such promise is called a Pact.*

Observ. I do wonder therefore from whence his *una persona* or *una curia* can derive their supreme power, whenas nothing can pass from either, or neither part, by vertue of the civil pact. And no doubt this *Civitas* will be a noble structure, built upon such a foundation, wherein I think no man did ever pronounce so much, in so little, more rashly.

Cap.2.art.15. 9. *We are freed from Pacts by two things, either when the Pact is performed, or forgiven.*

Observ. Therefore in the Civil pact, if any Right passes from the Subject to the Supreme power, then hath the Subject performed his pact, and so becomes freed from his subjection.

Cap.2.art.14. 10. *No man by his Pact is obliged to an Impossibility.*

Observ. And therefore can no Supreme power be derived from the Pacts of men: For where there is not *Jus vitæ & necis,* there can be no Supreme power; and no man hath a power over his own life, and therefore no man can give it or transfer it to another.

Art. 18. 11. *No man can be obliged by his Pact, not to resist him, who brings or intends damage to his body.*

Observ. And therefore no penal Laws can be executed; but Subjects are freed from their obedience, whensoever they have so far transgressed Laws, that they become liable to any corporal punishment; for where men may resist, there can be no subjection.

Cap.18.ar.13. 12. *Men must not resist where they cannot obey Princes, because it is against the Civil pact.*

Also by this article, *Men must suffer martyrdom, rather then resist;* which is absurd by *art.*18. *cap.* 2. for, martyrdom brings corporal punishment with it.

Cap.2.art.22. 13. *An Oath adds nothing to the obligation of a Pact or Contract,* (says *Tho. Hobbs.*)

Observ. But if Perjury be a greater crime then single Falshood, then no doubt but a man is more obliged to perform a Pact or Contract to which he hath sworne, then he who hath not; and a man may see many men afraid to forswear themselves, who make no conscience of telling a lye. And if no man be obliged by an Oath, then is an Oath nothing but the taking of Gods name in vain; and it had been a vain thing in *Abraham* to have made his eldest servant swear *by the Lord God of heaven, and the God of the earth, that he should not take a wife to his son of the daughters of Cannaan.*

Gen.24.2,3.

Cap.3.art.1. 14. *The second Law of Nature, is, Men must stand to their pacts.*

Every

Every Man is obliged to his promiſe by the Law of Nature, and all Men are obliged to their pacts by the poſitive humane Laws of every place where they made them: And to ſuppoſe, that the Supreme power of any place, is made from the pacts of Men, and that Men are obliged to their pacts by the ſupreme Power of that place, is abſurd, and *Idem per Idem.* *Obſerv.*

15. See how learnedly he proves from Scripture the aboliſhing of Mens common Right to all things, he cites *Gen.* 13. 8. *And* Abraham *ſaid to* Lot, *let there be no ſtrife I pray thee, between thee and me, and between my Herdſmen and thy Herdſmen: behold the whole Land is before thee, depart from me I pray thee.* *Cap.* 4. *art.* 4.

Verſe 7. is, *And there was a ſtrife between the Herdſmen of* Abrams *cattel, and the Herdſmen of* Lots *cattel.* So then before the aboliſhing of the common Right of all things, *Abram* and *Lot* had property in their Servants and Cattel, which is abſurd and impoſſible, for nothing can be common and proper. *Obſerv.*

16. *The ſucceſſion was due to* Eſau *by the Law of Nature, being the eldeſt ſon of* Iſaac, *if he had not ſold it, or his Father otherwiſe appointed.* *Cap.* 4. *art.* 15. *prope finem.*

Yet he ſaies truly, *Cap.* 3. *Art.* 29. *the Laws of Nature are immutable*; *Obſerv.* and here he ſaies, *the Father may alter them, and the Son ſell them.* Primogeniture being ſo ſacred a thing, that *Eſau* was ſaid to be a deſpiſer of his birthright, that he ſet it at a price to ſave his life, and being due by the Law of Nature, he could not transfer it to *Jacob* by any act of his; yet was it juſt with God, becauſe he deſpiſed it, to transfer it to *Jacob.* *Gen.* 25. 34.

17. *The ſubmiſſion to the will of one Man, or one Council, then becomes the will of them all, when every one of them obliges himſelf by pact to one another, not to reſiſt the will of this Man, or this Council to which he hath ſubmitted himſelf.* *Cap.* 5. *art.* 7.

Here is nothing to paſs, or to be transferred from one Man to another, and therefore here can be no pact; and here I would fain know, how to bind, and to be bound, can be the ſame thing, which Mr. *Hobbs* here makes. But every Man binds himſelf forſooth, and therefore every Man may when he will diſoblige himſelf; for, *unumquodque diſſolvi poteſt eo ligamine, quo ligatum eſt.* *Obſerv.*

18. *The Right of puniſhing, is then to be underſtood to be given to any one, when every one doth covenant that he will afford no help to him who ſhall be puniſhed.* *Cap.* 6. *art.* 5.

What power of life or death is here any more, then if a company of Men contract one with another, that they will afford Mr. *Hobbs* no relief, if another Man will kill, maim, or puniſh Mr. *Hobbs*, that then this Man hath a power over Mr. *Hobbs* his life and perſon? and this Right forſooth he will call *gladium juſtitiæ*, *Art.* 6. *Obſerv.*

19. Having made the Temporal power to have its origination from the Inventions, Pacts, Wills, and policies of Men, he makes it Judge of all Doctrins and Opinions of Faith, and this from convenience, for ſaies he, *If one may command any thing upon pain of Temporal death, and another forbids it upon penalty of eternal death, it will follow, not only innocent Citizens may be puniſhed, but the City it ſelf be diſſolved, for no Man can ſerve two Maſters.* *Cap.* 6. *art.* 11.

I would know how, this granted, could Chriſtianity be preached, when the Temporal Laws every where did forbid it? Our Savior ſaies, Whoſo hateth *Obſerv.*

St. Luke 14. 26. St. Math. 10. 28. hateth not Father, and Mother, and Wife, and Children, and Brethren, and Sisters, yea, and his own life, he cannot be my Disciple. And if Temporal powers command any thing contrary to the Laws of God, we ought not to feare them that can kill the Body, but are not able to kill the Soul; but rather to feare him, who is able to destroy both Body and Soul in Hell. 'Tis true indeed, no Man can serve two Masters, who may with equall Right command the same thing; but a Man may serve two Masters who do not with equal Right command the same thing; as a Tenant who owes Homage to his Lord, is the Lords Man of life and limb, and of earthly worship, and ought to be true and faithful to him, (saving the Faith he owes to his Soveraign Lord the King) and so every servant ought to obey his Master in all things, which do not contradict Gods nor his Country-Laws; and so ought every Man to submit himself to Temporal powers in all things, if they be not repugnant to Gods Laws. And let any Man see whether the whole scope of this Article, be not to make all Faith, and Religion, as well as Society, a meer invention and policy of Man, and humane constitution, and Creature of a Creature; nor is the danger he makes, so much to be feared, for Ecclesiastical Powers have nothing to do with Secular jurisdictions.

Littleton Hom. cap. 1.

Annot. art. 11. *Cap.* 6. 20. *There are some doctrines held,* he saies, *by which Citizens are impowered to deny Obedience to the* Civitas, *and to fight against Supreme Princes and Powers, and that by Right, yea it behoves them; and this belongs to the power which many do attribute to the Prince of the Church of* Rome *in* aliena Civitate, *and to the power also which Bishops otherwhere, out of the Church of* Rome, *ascribe to themselves.*

Observ. I do not know, nor did ever hear that any Bishops out of the Church of *Rome*, did ever ascribe to themselves this Power. Nor are there any Bishops in the Western Churches of *Christendom*, out of *England*, *Ireland*, and the Isle of *Man* (if those in *Scotland* were not, which is a question:) and sure this Hierarchy never challenged any such Power. But why does this Man take such care for peace and quiet? when as by his own principles he justifies all the actions of the League in *France* against *Henry* the fourth; for *Henry* the third never gave nor sold the *French* Monarchy to *Henry* the fourth, nor did the Duke of *Mayne* and his party upon the death of *Henry* the third, oblige themselves by pacts one to another, that the will of *Henry* the fourth should be the will of them all.

Sodorensis Episcopus.

Cap. 9 *art.* 13.

Cap. 5 *art.* 9. 21. It is most manifestly false, and contrary to the practice of the whole world (where Men are not condemned to slavery) *that servants have no property against their Masters*; for where servants are not slaves, they may both sue, or implead, and be sued, or impleaded; nay they may sue their Masters for Debt, or not performance of Covenants, &c.

Cap. 8. *art.* 5.

Cap. 9. *art.* 1. 22. Where he makes the Fathers power *not to arise from Generation*, but that *Art.* 7. *Children are subject to their Father, no otherwise then Servants are subject to their Masters*, is so wild and groundless an opinion, that it is not worth an answering.

Cap. 12. *art.* 6. 23. *It is*, he saies, *a seditious opinion, that Faith and Sanctity are not acquired by reason, and study, but always supernaturally infused and inspired*; and yet he saies, *Cap.* 18. *Art.* 4. *prope finem*, *There is but one way to Science*, i.e. *by definitions; but this way to Faith does hurt.*

Observ. How these two are consistible, I do not understand.

Jus

24. *Jus* is contrary to *Lex.* *Cap.14. art.2. prope finem. Observ.*

Therefore by the 4. Axiom *lib.1. Euclid. Jus naturæ*, is contrary to *Lex naturæ.*

By *Art.1. cap.4. Lex naturalis, est Lex divina.* And therefore by *Art. 2. cap. 14. Lex divina*, is contrary to *Jus divinum*; which is most abominable Blasphemy. Nay he says, * *Jus divinum positivum*, is the Scripture; and here, *Lex divina positiva*, to be the Scripture. So that he makes contraries to signifie the same thing. *Cap.8 ar.10. and oftentimes in his Preface.

Lex naturæ cannot be contrary to *Jus divinum*, nor different, but only in this: *Jus divinum*, is an absolute right in God, to will or command any thing to be a Law of Nature; and *Lex naturæ*, is that which is so willed or commanded by God. I deny therefore that any Creature can have *Jus divinum*; but that all right which any Creature hath, is either from some Divine, or Humane law. *Observ.*

Jus naturæ, is superior and must precede *Lex naturæ.*

By *Art.3. cap.1.* Every man hath *Jus naturæ.*

Therefore every man hath a right above the Law of Nature; and so Mr. *Hobbs* may save himself the trouble of his Philosophical Elements *De Cive:* For since he makes every man above the Law of Nature, sure he can never make him subject to any Humane Law.

25. *It is impossible for the Civil Law to command any thing contrary to the Law of Nature.* *Cap.14.ar.10.*

Is it not a wonderful thing, that this man should make the *Civitas* to be a humane Artifice and invention, and the Law of Nature to be the immutable Law of God; and yet that it should be impossible that this Artifice (or created Deity) to command any thing contrary to this immutable Law of God? Sure the greatest Papalian never ascribed so much to the Pope in *Cathedra.* I will then tell him wherein the *Civitas* may command contrary to the Law of Nature, and wherein he is mistaken. The Laws of Nature are either upon supposition of Humane Laws, or not upon supposition of Humane Laws; as, *Thou shalt not steal*, supposes a Humane Law, which gives Property; but, *Honor thy Parents, Be grateful for benefits received, &c.* supposes no Humane Law: And therefore if the *Civitas* commands me to dishonor my Parents, or to be ingrateful for benefits received, (which *de facto* it may) this being but a Humane Law, I am notwithstanding obliged to honor my Parents, and be grateful for benefits received. But Mr. *Hobbs* supposing no Laws of Nature, but upon supposition of Humane Laws, is the reason (I conceive) why he says, *It is impossible for the* Civitas *to command any thing contrary to the Law of Nature.* *Observ.* *Wherein the Civitas may command contrary to the Law of Nature.*

Yet will he have one exception, viz. *That the* Civitas *commands nothing to the contumely of God.* If a man should ask him, whether there be no Law of Nature, but the Honoring of God? If there be no other Law of Nature, then to what purpose are all his Laws of Nature, of standing to Pacts, of seeking Peace, &c.? Well, but if men by the Law of Nature are obliged to honor God, and it be impossible, as he says, for the *Civitas* to command any thing contrary to the Law of Nature, then is it impossible for the *Civitas* to command any thing to the contumely of God; and so he has made a needless exception. But it may be he does not think that men by the Law of Nature are bound to honor God; for he has not so much as mentioned it in his Laws of Nature. *Ibidem. Observ. 2.*

For

Mr. Hobbs. *For then they are no Laws.*

Observ. 3. Yes, the Statues of *Omri* were Statutes, although they commanded to the contumely of God; and so was *Nebuchadnezors* command for the worshiping the Golden Image, a Law, though made to the contumely and dishonor of God.

Observ. 4. Whereas he saies, *Quid sit Adulterium, does depend upon the* Civitas; I would know of him, whether it were Adultery in *David* in lying with *Bathsheba*, during *Uriahs* life? if it were, then is it not true, which Mr. *Hobbs* here saies; if it were not, then did God unjustly, so severely to punish him therefore.

Cap. 7. art. 3. *Tyranny is not a State of a City, different from rightful Monarchy.*

Observ. True, upon your false and feigned Principles, where the wills and pacts of men are made the cause and origination of all Power in Government; where Mens wills are made their Laws, then which nothing can be more destructive to all Laws divine and humane; and the most Wilful man should be the most Just man: for to what purpose should there be any Laws Divine, or Humane, if a Mans own will be a rule and Law to himself? and by this Mans principles, *it is only mens wills from which all Power in Government is derived, and to which Men ought to be subject.*

Mr. Hobbs. Yet, good Man, some difference he makes, *viz.* only in the *exercise of their Power*; he forsooth *is a King that rules well, and he is a Tyrant that rules otherwise.*

Observ. As if *Absoloms* kissing the *Israelites*, when they came to demand Justice, and his desire to judge the people righteously, had made him a good Title to the Crown of *Israel*; or that *Jeroboam*, or *Athaliah* had not been Usurpers, but very Rightful Princes, if they had ruled well. But though he makes no difference between Swordbearers and Swordtakers, between Gods Ministers, and Theeves and Robbers; yet the Holy Ghost does, for Gods Minister is a Swordbearer; and if he be not Gods Minister and a Swordbearer, but a Swordtaker, as our Saviour calls them who have not a just Authority, then whosoever *sheddeth mans blood, by man shall his blood be shed; for in the image of God made he man.* And if ever Man had a just cause to have taken the sword, then had St. *Peter* in defence of his Lord God and Master; but our Saviour reprehends him, telling him that whosoever takes the Sword shall perish by the Sword. And it is not wicked men whom Usurpers, Tyrants, and Swordtakers so much murder (for it is no better) as vertuous and honest: The worst of private Malefactors may justly with the Whore in *Terence* answer to the best of Swordtakers (if there be any degree of goodness in any of them) *quamvis ego digna sum hac contumelia maxime, indignus tamen tu qui feceris.* And whereas he only makes *Tyrannus ab exercitio*, it is false; for the abuse of a thing does not alter the nature of a thing, as a Man is a Man, although a bad Man, who abuses those good parts which God hath given him; so is a Father, and a Master, a Father and Master, (yet bad ones) where they abuse their Power; and so is a King, a King, although he abuses his Power; and the Holy Ghost many times calls them wicked, and idolatrous, Kings &c. but never Tyrants, as this Man does.

Rom. 13. 4. St. Matth. 26. 52. Gen. 9. 6.

Cap. 1. art 12. and Cap. 8. art. 10. I would here gladly be satisfied of Mr. *Hobbs*, how (if God made Man *in the state of pure nature*, as he saies, in such a cut-throatly condition, and so much worse than any other creature, that men might *jure naturali everlastingly kill one another, and commit no offence, if the King or* Civitas *does*

not

not restrain it) God could in justice have punished *Cain* for killing *Abel*, if *Cain* or *Abel* had not gone to *Do* or *Dedi*, and not to *Dabo* or *Faciam* with *Adam*, and made him their King, or *Civitas* over them, and *Adam* have given them a Law not to kill one another, (which I no where find, nor he proves, nor do I see any colour of reason to believe:) Nor had *Adam* any power to restrain his Sons, or give them Law, as Father; for if you believe him, he tells you, that *Dominium paternum non oritur ex generatione.* *Cap.6. art.16* *Cap.9. art.1.*

I would further be satisfied, how this civil pact can give the *Civitas* that which none of them have, *viz.* Property, and power of life and death, without which can be no *Civitas* or Supreme Power; or any Power at all, if we be Christians, and believe God, who says, *By me Kings reign, and Princes decree justice, or judgement*; and that, *All powers are of God, and the powers that be are ordained of God.* If they be then Gods ordinances, and ordained of him, then can they not be an artifice and invention of any Man, but are, and ever have been, whether *Do* or *Dedi* ever had been or not. Pro. 8. 5. Rom. 13. 1.

And let any man judge whether he does not contradict himself. He says, *That the concord and consent of the Multitude, is not sufficient long to preserve Peace; but that it behoveth that something more be done, that they who have once consented to peace and mutual aid, for the common good, should not afterward, when any Private good varies from the Publique, again disagree, be restrained by Fear.* And *Art.* 5. he says, *Aristotle reckons among living creatures, which he calls Politick, not only Man, but also many other, as the Ant and Bee, who although they be destitute of reason, by which they can make covenants and submit themselves to Government; yet nevertheless by consenting, that is, by desiring the same things, and by avoiding the same things, they so direct their actions to one common end, that their Companies are obnoxious to no seditions: Yet are not their Companies therefore* Civitates, *nor are those Creatures to be called Politick, because their Government is only consent, or many wills to one object, not (as is necessary in a City) one will.* *Cap.5. art.4.*

Now mark, here he says, Consent only makes no *Civitas*; yet where he would prove the beginning of his Institutive or Politick Government from Scripture, he says, *Tale fuit Initium regni Dei, &c. Such was the Kingdom of God over the Jews, instituted by* Moses: *If you will hear my voice, &c. ye shall be to me a Priestly Kingdom. And all the People together answered, We will do whatsoever the Lord hath spoken.* *Observ.* *Cap.11. art 1.*

So here let any man see this great Master of Learning and Reason, make the *Initium* of this Institutive or Politick *Civitas* to be derived from the Consent of the Multitude; and in the same breath, before the Multitude did consent, he makes God only by his servant *Moses* first to will, and after that the People to consent. You come behind, and I follow after, whither of us went before? *Observ.*

But suppose the beginning of this *Civitas* had its beginning from the Consent of the People, yet does he contradict himself as much as before; for then this *Initium*, is the *Initium, caput, corpus, & finis* of it, for here is nothing added to it. So that either here is no *Civitas*, and so Mr. *Hobbs* says not true, and has taken great pains to no purpose; or else this *Civitas* is wholly made from the Consent of the Multitude, which is absurd, and contrary to *Art.*4. & 5. *Cap.*5. *Observ.* 2.

Well, let us see whether he hath better success with *Art.* 6. then the 4. and 5. where he says, *Because the conspiracie of more Wills to the same end, is not sufficient for the preservation and stable defence of Peace,* (Doubtless it is not less then a Judgment upon him, that he should call such a consent as he here speaks of, a Conspiracie, which all men take in ill sence, of men consenting to do some evil act;) *it is requisite that the will of all be one, concerning those things which are necessary to peace and defence: But this cannot be, unless every man so subjects his will to the will of another,* viz. *of another Man, or Court, that whatsoever he wills concerning those things which are necessary to the common peace, be accounted the will of them all and every one of them.* And *Art.* 7. he says, *This submission to the will of one Man, or one Council, then is made the will of them all, when every one of them obligeth himself by pact to every one of the other, not to resist the will of that Man, or that Council, to which he has submitted himself.* And this a little after, he says, is called *Unio*; and this Union so made, *Art.* 9. is called *Civitas*, or *Societas civilis*, or *Persona civilis*.

Observ. If this *Unio*, or *Civitas*, or *Societas*, or *Persona civilis* be so necessary to all Governments, and that it must (and therefore may) be made by
1 Sam. 8. 5. mens pacts one with another; I wonder why the *Children of Israel* should be so zealous to have a King to judge them, like all the Nations, if they could by their pacts have made one, without ever asking one at Gods hands. Nor was there at that time, or ever before, any such thing as *ista Curia*, or Democracy ever heard of: For the *Children of Israel* desired a King to judge them like to all the Nations; and at that time was *Codrus* King of the *Athenians*, *Smendes* or *Semendes* King of the *Sicyonians*, *Aletes* King of the *Corinthians*, *Eurysthenes* King of the *Lacedemonians*. So that in those days, not among the *Grecians* was there ever so much as Aristocracy or Democracy heard of. Nor was there ever any place in the world, where there were men inhabiting, without Government; (For that place [*When there was no King in Israel*] we shall answer afterwards.) Nor was there originally ever any Government, but Monarchy; and that never from any Pacts of men: And this Government so continued every where, until it was violated by seditious and rebellious men.

And whereas he makes this Civil Pact to be so necessary, and antecedent to all Civil Government; I would fain know of Mr. *Hobbs*, whether *Saul, David, Solomon, Jehu, Hazael, Cyrus, &c.* were not as much Kings, or *Civitates* (as he calls them) as if they had all this Covenanting and making Pacts one with another, That this mans will should be the will of them all, Not to resist the will of *David, Solomon, Hazael, &c.* in those things which they deemed necessary for the peace of the *Israelites*, *Persians*, *Syrians*, *&c.*? But if these were *Civitates*, (as if Mr. *Hobbs* be a Christian, which I think may be a question, he must needs confess) and yet not made so by his Civil pacts, nor indeed any other; Then is this *Unio* so far from being essential or necessary to the making of a King or *Civitas*, that as to the right of a King, it is no matter whether it be made or not: For men, if
Deut. 17. 15. they do not submit, and consent to rightful Kings government, they disobey God.

Nor did God rob the *Israelites*, *Syrians*, or *Persians*, or any other Nation, of any of their original right and power of making to themselves Kings, by giving them Kings. Nor were these Kings *Civitates Naturales*,

as

as he calls them, having overcome by force, and commanding leſt they should kill. *Xenophon* in his Proeme to *Cyropædia*, says: "We know they "did partly obey *Cyrus*, who were severed from him many days journey, "they who were severed from him many moneths journey, and they who "had never seen him; and lastly they who could not hope ever to see *Cyrus*, "yet were content to obey him. And when he had reckoned up all the "Countries subject to *Cyrus*, says, He enjoyed the Dominion of all those "Kingdoms, whose language was neither the same with his, nor common "with themselves: And yet there could be nothing less, then for fear of "him, so great a part of the world should obey; that all stricken with fear, "none should dare to disobey him. *Cap.5. art.12.*

And whereas he says, *That is to be understood the will of the Council, which is the will of the major part of those Men, of whom the Council consists:* It is an improper speech; for, the will of the major part, cannot be the will of the totality, but plurality; and if the will of the major part could be the will of the whole, then were a part equal to the whole, which is absurd, and impossible by *Not.9. Eucl. lib.1*, *Art.7.* *Observ.*

And though he takes such pains about his Pacts, and makes them so essential, and precedent to all *Civitates*, and that all Institutive *Civitas* is built upon; yet such is Truths excellency, that he overthrows it all, where he says, *Quare tu appellas eum Tyrannum, quem Deus Regem fecit?* 'Tis true indeed, if he be a King, only God can make him so: And if Civil power had been artificial in the cause, then must it necessarily be, that some time may be instanced where, and when this artifice was not: For all arts depending, and being made from mans understanding and reason, there must be a time before this art was found out; and if it were an art, it is not to be imagined that it should alwaies, in all times, be practised every where in the habitable world: And every man sees, that sometimes several arts are esteemed by some men, in one place, and neglected by others in the same place, and in other places not minded at all; and a famous Invention, or Art, is much cryed up in one Age, not minded, and neglected in another: whereas the mutual offices of Commanding, and Obeying, were always among men, in all places, ever since there were men in the world. 'Tis true therefore which *Aristotle* says, that *Nascitur dominus, & nascitur servus*; although he would have it *contrary to reason and experience*. And by consequence, the Kings of *Denmark*, *Poland*, and the *Romans*, are rather Kings by courtesie, (as they call the sons of Dukes, and the eldest sons of Marquesses and Earls, and the Judges when they are upon the Bench, Lords, though they be none) rather then Kings indeed. And so the Emperor, and Duke of *Venice*, are rather Supreme Powers in imagination, then truly so: which made our *Edward* the Third to refuse the Empire, and *Henry* the Fourth of *France* to scorn it. *Cap.12.ar.13.* *Pro.8.15.* *Isa.3.4.* *Lib.1.Pol. Cap.3. art.13.*

And if it be true which he says, as it is, *that God makes Kings*; then is it false where he says, *that a Monarch may at his will declare his Successor*. *Cap.7. art.15.*

Sure, this man would not have feared to have been of the Lady *Jane's* Conspiracie against Queen *Mary*, the Lady *Jane* being declared Successor to *Edward* the Sixth by his last will and Testament. Besides, if it be true, as it is, which Sir *Edward Coke* says, that *Solus Deus hæredem facere potest, non homo*, and this to Estates that descend by Humane Laws; then sure no man can make an Heir to a Crown. *Observ.* *Co.Lit. sect.7.*

But if Mr. *Hobbs* shall ask me, If power in Government were not originally from Pacts, how it came first into the world? I answer, That I am not bound to give an account of things how they came to pass, whereof there is no record: It is enough for me to affirm, That no time ever was wherein men did live together out of Society and Government. Besides, Society being natural, it is an absurd question; and a man may as well ask, why God made the world in that order and frame that he hath; or how he came to make Man a reasonable creature, and all other irrational, as why a sociable?

Well, but if he shall say, that Laws ought to be known; and if Kings reign by Gods law, then how can any man know that this man is King in this place, and that man King in another place? I answer, That I am content to shew this man by Gods law to be King here, and that man to be King there, when any man shall shew me by any Humane law, that any Individual man is heir to any Estate. And if there be that excellencie in truth, that a right Heir to the meanest Estate be rarely suppressed; then is this excellencie of truth more perspicuous, whenas I am confident that the right Heir to a Crown was never so suppressed, but he was ever believed to be so by them, who had never seen him, and most hated him. Besides, *Jus* is *duplex, Jus proprietatis, & possessionis*; *Jus ad rem*, and *Jus in re*. And therefore any Prince who is possest of a Crown, has a Title good enough against any man else, but him who hath the *Jus proprietatis*, or *Jus ad rem*. And therefore ought no man, upon penalty of Damnation, to *resist the Higher powers which are*, that is, which are in possession, if it does not clearly and evidently appear, that this is only pretended power, and force indeed, to the dispossession and disinheritance of another, against whose right and title no just exception can be taken. Let this suffice here; we shall take occasion to discourse hereof more hereafter.

Rom. 13. 1.

I would fain know of Mr. *Hobbs*, Who gave the People this power of making Kings, or *Civitates*? or what are the People that have, or when was it, that they had it? At what age in pure nature, shall any man claim this right of giving up his Will, or be an Instrument of making this Civil Pact? or who shall define this time? Whether Women be not part of Mankind, and have not Wills as much or more then Men; and are not as liable to punishment for not observance, or transgressing humane Laws, as Men? Whether it be not reasonable, Posterity may not give up their Wills to another, since they have not the same Wills with their Ancestors? Whether the Ten Tribes did not rebel in giving up their Wills to make *Jeroboam* King, though neither they or their ancestors ever made *Rehoboam*, *Solomon*, or *David* King, by giving up their Wills? Whether the King or *Civitas* claiming all right and power from the Multitude, and every one of the Multitude claiming all right and power from the King or *Civitas*, be not *Idem per idem*? And let any man judge whether there be any thing more unreasonable then this mans *Dictamen rectæ Rationis*.

OBSER-

OBSERVATIONS
ON
HUGO GROTIUS
De Jure Belli & Pacis.

LEt us see whether *Grotius* his Fabrick built upon this Popular foundation, be not as absurd and monstrous, as either our *Author's*, or Mr. *Hobbs's*; and adde him to these two, and see whether these Three be in Harmonical proportion.

But before we proceed, we will take some direction from the greatest Light of Nature, *Aristotle*; who says, *All men naturally desire to know; but there is but one way by which men can attain to knowledge*, viz. *That they proceed from things known, to find out things less known; and from things manifest, to find out things more obscure.* Which is evident: *Naturaliter constituta est via ab iis quæ sunt nobis notiora & clariora, ad ea quæ sunt clariora & notiora naturâ. Non enim eadem sunt & nobis nota, & simpliciter: quare necesse est hoc modo progredi; nimirum, ex iis quæ naturâ quidem sunt obscuriora, nobis tamen sunt clariora, ad ea quæ sunt notiora & clariora naturâ. Ea verò sunt nobis primum perspicua & manifesta, quæ sunt magis confusa. Idcirco ab universalibus ad singularia progredi oportet: totum enim secundum sensum notius est; universale autem est totum quiddam.*

Metap. l. 1. c. 1.

Phys. lib. 1. tit. 2, 3.

Well; *Grotius* says, *In the beginning of Mankind, Community was another thing then what Dominion now is: For now* Dominium *signifies something proper, which thing (to wit) is so one mans, as it is not anothers in the same manner. We call that thing Common, whose propriety is collated amongst many by a certain consort or consent, excluding other men.* Linguarum paupertas coegit voces easdem in re non eadem usurpare: *The poverty of Tongues hath forced men to use the same words in a thing not the same. The Community which then was, was nothing else but what was simply opposed to Property.*

Mare Lib. c. 5. p. 34.

But

But in his Preface to this Book *De Jure Belli & Pacis, & para.3. lib.1. cap.1.* He shall not need to complain, that the poverty of Tongues compells him to use the same words, in a thing not the same. For he himself useth things not the same, (viz. *Communitas & Societas*) in the same word, viz. *Communitas*.

Observ. Now, that Community and Society is not the same thing: There is not, nor ever was since the beginning of the world, any Family where men did not live in Society; but in no Family did men ever live in Community. Nor did ever men desire such a Community, as he here, and before in his *Mare Lib.* speaks of. Nor can Mankind subsist in such a Community; and so he himself confesses. And Man may be therefore not improperly said to be a reasonable creature, because he does not love and affect another because he is of the same kind with himself, (as other creatures who live in companies do) but chooses his society, as his Reason or conversation leads him.

Lib. 1. cap. 1. para. 3.
Lib 2. cap. 2. para 2.

But this Community (he says) which Man desires, *is not of whatsoever Community, but of peaceable, and ordained for the manner of his understanding, with them who are of his own kind: which Community the Stoicks called* οἰκείωσιν.

Observ. Does any Creature that lives in flocks and herds, not desire the community of its own kind? and therefore Hogs, Deer and Goats keep in herds, and Sheep in flocks. Or does any man think that *Grotius* could ever imagine, that his Countrimen did desire Society or Community with other Nations for their Understanding, or Profit? If they desire this Society or Community for Profit, then are they out of *Grotius* his first Principle proper to Man; and for ought I can understand, as very Beasts, as any who desire to live in Community.

But *Cynthius aurem vellit*: For, says he, *Quod ergo dicitur natura, quodque animal ad suas tantum utilitates ferri, ita universe sumptum, concedi non debet. What thing therefore is called Nature, and that every Creature is carried only to their profits, ought not to be granted so universally taken. For even some of other living Creatures, the study of their profit, partly in respect of their young ones, partly in respect of others of like kind with themselves*, aliquatenus temperant.

Observ. Is not here a Principle well defined! What so much as Equivocation can be taken against this, or the other Principle of Men, and Beasts: or indeed, what Man or Beast does understand any thing clearly from either of them? How does this man take *Aristotles* one onely way to attain to knowledge, *viz.* from known and manifest things, to find out things less known and more obscure; whenas his very Principles are so obscure and equivocal, as either they are not to be understood, or may signifie one thing as well as another? Nay, let any man see if he makes not his Countrimen generally verier Beasts then many other; for they have no respect of others of like kind with themselves, but only study their own profit: * *Which thing we believe, in them, does proceed from some outward understanding principle*; *Ex principio aliquo intelligente extrinseco*.

* *Grotius.*

Observ. Has he not now well mended the matter, thus by a new term (I believe never before heard of, nor for ought I understand, to be understood) to explane a thing obscure, by a term more obscure? But the matter in controversie is not, from what Principle Beasts desire Society; but, whether they desire Society, or not?

When

When he is got looſe from theſe Principles, he then ſaies, *But this keeping of ſociety, which in a rude manner we have expreſſed convenient to humane intellect, is, the fountain of that right or law (* ejus juris *) which is properly ſo called, by which abſtinence from what is anothers, obligation to perform promiſes, reparation for wrong done, &c. do appertain.* Grotius

But ſure the Man does much forget himſelf; for in this Community he here ſpeaks of, there can be no *meum* or *tuum*, and therefore no *alienum*, and by conſequence no *alieni abſtinentia*; nor can any Man perform any promiſe, who can have nothing wherewith to perform; nor make reparation for wrong, when he can neither do any, nor has any thing to repair it withall. *Obſerv.*

Then he tells us, *From this ſignification of Right or Law (* ab hac juris ſignificatione *) flowed another larger, which* (he ſaies a little after) *conſiſts in diſcerning what delights or hurts us, and in judging how things ſhould be wiſely diſtributed.* Grotius.

What is there in this, which is proper to Man? does not every other Creature by an inſtinct in nature (which God has given inſtead of reaſon) diſcern much better then any Man does, what thing delights, and hurts them? and all oviparal creatures more wiſely diſtribute to their young ones, then the wiſeſt Man can to his Children. *Obſerv.*

He defines *jus naturale*, to be *Dictatum rectæ rationis indicans actui alicui, ex ejus convenientia, aut diſconvenientia, cum ipſa natura rationali, ineſſe moralem turpitudinem aut neceſſitatem moralem, ac conſequenter ab auctore naturæ Deo talem actum aut vetari aut præcipi.* The Law of nature is the dictate of right reaſon, ſhewing to any action, from its convenience or diſconvenience with Rational nature, that there is in it a Moral turpitude or a Moral neceſſity, and conſequently ſuch an act is commanded or forbidden by God the Author of Nature. *Lib. 1. cap. 1. para. 10.*

Would not any man after all this adoe, expect that *Grotius* had defined ſomething? But if *definitio* be *excluſio æquivoci*, then is that no definition which may ſignifie one thing as well as another; and if humane actions convenient or diſconvenient with Rational nature, may be prudent and profitable, aſwell as Juſt and Moral, then is there not in every action convenient and diſconvenient with the Rational nature, a Moral turpitude or neceſſity; and ſo every ſuch action is not the Law of Nature, and ſo neither commanded nor forbidden by God. But I forgive *Grotius* in this, not having defined any thing leſs equivocally: as alſo his every where confounding *jus* with *lex*, in regard the *Romans*, *Civilians*, and generally Lawyers do ſo; yet thus much I do affirm, that if *jus* and *lex* according to *Calepine*, do differ as *Genus* and *Species*, or at leaſt as the cauſe and effect; (for it is impoſſible there ſhould be *lex lata* where there was not *jus legiſlativum* ſuperior, and the cauſe of the Law) then he which writes of theſe things muſt diſtinguiſh and define them, or he ſhall never write clearly, or be clearly underſtood in any thing which he writes of them. *Obſerv.*

But though he makes *jus naturale* to be *dictatum rectæ rationis, viz.* a liberty or abſtinence to every Man, to do or not do whatſoever is reaſonable to him, and that this *jus* is the Law of God and unalterable by God himſelf; yet without giving any reaſon for it, he ſaies, *Sciendum eſt præterea &c. It is to be further known, that natural Right or Law does not only act concerning thoſe things which are above a Mans will, but concerning many things which follow a* *Lib. 1. cap. 1. Parag. 10.*

Mans

mans will. So, Dominion which is now brought in use, mans will brought in: But being brought in, it is wickedness in me to take against thy will, that which Natural law or right (Jus naturale) *shews to be of thy dominion.*

Observe. So that his Principles before were either equivocal, or obscure; And here is one, which signifies contradictory, and impossible things.

These things therefore granted, and being the easie, and known Principles upon which *Grotius* laies his foundation, and so plain and perspicuous, as no exception, nay not so much as equivocation can be taken against them, any of them, or any part of them; Sure he shall not need much to use the help of Geometry, to build a most exact and noble Structure, which shall not only be a Land-mark, but also a Sea-mark for all Kings and Commonwealths, now and hereafter to govern and steer their actions by, *tam per mare, quàm per terram*, as well by Land as Sea; but also a secure Rule for Subjects to continue their obedience, until they pretend a necessity for rebellion; if otherwise they cannot find some relief out of such popular Orators as *Cicero, Demosthenes, Cleon, &c.* which *Grotius* shall esteem of like weight with any testimony of Scripture.

It is a most pleasant thing to see the excellencie of Truth in her pure and simple nakedness, how plain, easie, and beautiful she appears: whereas Falshood, with all the art, learning and industry of man, is still rendred more perplext, confused and dark, by how much is added to it.

And therefore to what a volume here has *Grotius* increased his *Jus Naturale!* Sometime it is *Jus divinum voluntarium, jus divinum, jus humanum, jus humanum voluntarium, jus gentium, jus civile, jus latius patens, jus arctius patens, jus constitutum, jus immutabile, jus commune, jus gladii, jus divinum perfectius, jus belli solenne, jus belli minus solenne, jus precarium, jus revocabile, jus usufructuarium, jus temporarium, jus armorum movendorum magistratuum minorum, jus naturæ pro certo statu, jus rectorium, jus æquatorium, jus superveniens regis, jus externum, jus internum, jus exterorum superveniente dominio, jus pignoris, jus retentionis, jus servitutis, jus luendi pignoris, jus transeundi, jus morandi, jus habitandi, jus habendi loca deserta, jus reductive, jus restrictive, jus gentium improprie, jus derelictum, jus quæsitum, jus feciale, jus externum efficax, jus reale, jus inventionis, jus primi occupantis, jus proprietatis, jus possessionis, jus dominii, jus herile, jus paternum, &c.* Whereas if he had made use of that plain and short Sentence, which *Alex. Severus.* the greatest Glory of all the Heathen Roman Emperors professed he learned of the Christians, *Quod tibi fieri non vis, ne feceris alteri*; it would have signified infinitely more, then is contained in all the confused obscurity which he imposes upon the world in this Book *De Jure Belli & Pacis*, founded upon this false and feigned Principle of the *Original right and power of the People*, from whence he derives all power in Government. For, art thou a Subject? thou wouldest not willingly any man should forceably or fraudulently take any thing, which the Law has given thee, from thee; Do not thou so by another. Is he a King? he would not have his Subjects wronged by another; Let not him wrong another Kings Subjects. If one Subject does another wrong, the Law is open; he who is wronged may have relief by Action or Complaint, not by Arms. If one King does wrong to another, he who is wronged has God and his sword to defend himself, and do justice upon his Adversary. And whether the doing, or not doing such a thing be wrong or injury, is every King, and not *Grotius* Judge, and God the Judge of every King.

It

It is true, that in all Faculties whatsoever, and in all Arts and Sciences, men must use Terms to express what they conceive by any general Notion and Thesis, (*Et ab universalibus ad particularia ratiocinando, oritur scientia*) and must alter their Terms as they proceed from one thing to another, and add to them in the specifications of them; (for, *Omnis additio probat minoritatem.*) But no man (who desires to be understood, or who desires to understand himself) will undertake such a task as *Grotius* here does, to compile a Volume upon such contradictory, equivocal, and obscure Principles: For, *Conclusio sequitur deteriorem partem.* And if any part of a Proposition be but probable, though the Sillogism be made in the cleareſt Mood, yet the Conclusion is no more.

And any man may much better thus reason, then *Grotius* does: —— A right-lined Figure, is that which is comprehended under right lines; and that which is comprehended under three right lines, is a right-lined Triangle. *Sciendum præterea, &c.* It is to be further understood, Right-lined Figures are not only such as are contained under right lines, but may serve for many other things besides. So, Spherical Figures, as they are now used by Astronomers, the invention of man has found out; but being found out, these right-lined Figures may serve for them also; (for, Spherical and right-lined Figures have many things common to them both; as when they are cut transverse, they are cut to right angles; and in Spherical and right-lined Triangles, two sides is more then the third, howsoever taken; and in both, the sides have the same proportion one to another, that their opposite angles have; nor are they in any thing contrary one to another:) Yet if any man shall take a Spherical and right-lined Triangle for the same thing, (as *Grotius* does *Jus Naturale*, which he makes to signifie Community and Property, in the same Principle, which are contrary one to another) I make no doubt but he might compile as big a Volume, and almost as little to be understood, as this *De jure Belli & Pacis.*

Well, but let us see why *Jus Naturale* is immutable by God himself. (Note, *Grotius* every where almost confounds *Jus* with *Lex*; and here he takes *Jus Naturale*, for *Lex Naturæ.*) For, *Although* (says he) *the power of God is immense, yet some things may be said to be, to which it does not extend it self; because those things so said, are only said, and have no sense which may express the thing, but are repugnant to themselves: So that twice Two should not make Four, cannot be effected by God.*

Observ. It is true, that God cannot make contradictory things, and things repugnant to agree, and to be the same. But this is nothing to *Grotius* his purpose, for a Similitude proves nothing; nor is there any analogie between the things propounded by *Grotius:* For though things simply necessary be immutable by God, yet the Law of Nature is the Law of God; and therefore being a creature of God's, it cannot have any obligation upon God; but being the Law of God given to Mankind, it is immutable by them; and God might, if it had pleased him, have given something else for the Law of Nature to Mankind. Both *Grotius* his Positions therefore in this Section are manifestly false, absurd, and blasphemous, viz. *That the Law of Nature is immutable by God himself*; And, *That* Usus communis *is* Jure naturali, *and yet mutable by the will of Man.*

If *Lex lata* had any obligation upon the Legislator, then were the Creator obliged and subject to the creature; than which there is nothing more blasphemous.

And if I be demanded to shew an example, that God is not obliged to the Law of Nature, or that the Law of Nature is not immutable by God:

I say, *Jus suum cuique tribuere*, is from the Law of Nature; yet did the
Ex.12. 15,16. Children of Israel borrow Jewels of gold, of silver, and raiment of the Egyptians, and all such things as they required of them, and spoiled them by not making restitution, without any violence upon the Law of Nature, because God commanded them; nay, they had sinned and disobeyed God, if they had not done it. And so by the Law of Nature, every Father is obliged to preserve and nourish his children; yet because when God commanded *Abraham* to offer up and kill his son *Isaac*, *Abraham* was obedient to God and would have done it, God takes it for the highest act of *Abra-*
Gen.22.17. *hams* faith, and swears by himself, *That in blessing he would bless him, and in multiplying he would multiply his seed as the stars of heaven, &c.* Yet can no man borrow, with a resolution of not-restitution; nor any Father put his Son without cause to death, where God does not command, though all the world should command it, without a violence upon the Law of Nature. Nay I say, the Laws of Nature being eternal, there was never any time when men ought not to give every man his due; and so by consequence, no time when *Grotius* his *Usus communis* was, since Men were born; but ever since
Gen.4.3,4. Men were in the world, Dominion and Property have been. *Cain* had his Fruit of the Tillage of the ground, and *Abel* had his Flock and the Firstlings of his Flock; neither of which could be, if *Grotius* his *Usus communis* had been.

Object. But you may say, Property presupposes humane Laws, which must give it; and humane Laws must happen in succession of time: And that therefore before these humane Laws were, there could be no Property, and by consequence, all things were common and undivided.

Sol. For the satisfying of this doubt, we must consider that God, in the Creation, only created one Man, and out of him made Woman; and that ever since no Man was ever made, but the species of Mankind hath been continued by generation. I grant that all things were common to *Adam* (except the forbidden fruit;) but no Man that was ever born into the world (and not a Posthumous King) who was not born in subjection to humane Laws. Nor did ever *Adam* derive this Legislative right which he had over his Wife and Children, by any Pact, Contract, or Submission
1 Tim.2.13. of his Wife and Children; but had it from God, because he was first made. It is therefore manifestly false, which these men beg, *That by Nature all Men are equal, and that the will of Man brought in Dominion.* Nor do these men shew out of any sacred or prophane History, that ever Dominion was brought in by Man, or that Men had things common and undivided among them.

Lib.1. cap.1. para.10. Well, but *Grotius* (having in this Paragraph, in a tedious unsignificant thing, defined the Law of Nature so, as it may signifie any thing, and made it the Law of God; and that thing, which hath quite routed this Law of God out of the world, and set up another thing in stead of it, to be the Law of Nature; and made the Law of Nature to be immutable by God himself, and yet to continue but for a certain season) thinks he hath not so perspicuously done this, *but that a certain Image of mutation may deceive them who take not heed; whenas the Law of Nature, which is immutable, is not changed, but the thing of which the Law of Nature does work, receives some mutation. For example: If a Creditor to whom I am obliged, takes what I owe him; now I am not bound to pay, not because the Law of nature leaves to command*

to pay what I owe; but because what I did owe, ceases to be. And to prove this, he brings Greek in *Epictetus.*

It is true, that universal causes in nature produce nothing, but as meeting with particular material causes; the law of nature therefore of it self produces nothing, but as meeting with particular material causes apted and disposed for the law of nature to work upon; and therefore when these particular causes cease, the obligation which the law of nature creates, ceases also. As, *Thou shalt honor thy Father and Mother,* is the law of nature; but then there must be Parents & Children, or the law of nature creates no obligation; and therefore when the particular cause ceases, the obligation of the law of nature ceases also; as when Parents are dead, the law of nature in that particular can have no obligation upon their Children. And so in the instance which *Grotius* gives, a Debtor is by the law of nature obliged to pay his Creditor: but this Debt being paid, the particular cause ceasing, the obligation of the law of nature ceases also. What need therefore was there of *Arrianus* his Greek out of *Epictetus,* to prove a prime and necessary truth, which is of more authority then forty *Arrianuses,* and all the Greek in *Epictetus, Grotius,* and all his Authors and Poets to boot? *Observ.*

Grotius goes on: *So if God commands any man to be killed, or to take away any thing that is anothers; It is not lawful that Murder or Theft be done, which terms involve vice; but it is not Murder or Theft which is done by God, the Author of life and all things.*

They say, *Nulla similitudo quatuor pedibus currit.* I am sure this similitude runs not upon one foot, for in this last the particular cause remains, whereas in the former it is taken away; and if the law of nature be immutable by God, and *Thou shalt not kill or steal,* be from the law of nature, then it is Murder and Theft, although commanded by God. Thus hath *Grotius* instead of clearly propounding his principles and orderly reasoning from them, thatched a company of equivocal and contradictory principles, with Poets and Authors brought in by head and heels; so as not any one proposition is clearly stated and disputed, but the whole Treatise a most perplexed and unsignificant thing. *Observ. 2.*

God conferred upon Mankind generally, Jus (*Right*) *immediately after the Creation, and again when the world was repaired after the flood, over all the things of this inferior nature. There were, as* Justin *saies, all things common and undivided to all Men, even as one Patrimony should be to all Men. God was pleased peculiarly to give rights* (dare jura) *to one only people, viz. the* Hebrews. *Lib. 2. cap. 2. Para. 2. Lib. 43. Lib. 1. Para. 16. de jure Belli, &c.*

Which is absurd and impossible by the ninth Notion of the first Book of *Euclid, viz.* a part equal to the whole; the *Hebrews* not being all mankind, but a part. *Observ.*

Grotius goes on, *Hence it came to pass that every man gathered whatsoever he could snatch to their own uses, and consume what could be consumed; and whatsoever any man had so snatched, that could no man take from him, but by injury: but this State could not long continue.* *Lib. 2. cap. 2. Para. 2.*

How's this? This is more monstrous and absurd then the other: what, God gave a Right to Mankind, and that so immutable, that it is unalterable by God himself, and yet not possible long to continue! *Observ.*

To prove this first Common Right of all things common and undivided to Mankind, he refers to *Gen.* 1. 29. 30. *And God said; I have given*

ὑμῖν (the Septuagint has it *to you* in the plural number, when *Adam* only was created) *every herb bearing seed, which is upon the face of the earth, and every tree in the which is the fruit of a tree yeelding seed, to you it shall be for meat, &c.* Now how could God speak to *Adam* in the plural number, when *Adam* only was created? It is said *verse* 27. *So God created* Adam *in his own Image, in the Image of God made he Man, Male and Female created he them*: And therefore God speaks here to *Adam* and *Eve*. Now whether God gave this Right to *Adam* and *Eve* in Community to both alike, as *Grotius* would have it, or to *Eve* in subordination to *Adam*, I refer it to any Christian Man to judge. *Let the Woman learn in silence with all subjection, &c.* and the reason the Apostle giveth is, *Man was first made, then Eve*. But suppose that God gave this Right not only to *Adam* and *Eve*, but to all Mankind in *Adam* and *Eve*; yet by the authority of the Holy Ghost had *Adam* dominion over all Mankind, because *Adam* was first made, and therefore God at the Creation of Man made Government with Mankind.

1 Tim. 2. 11.

verse 13.

Let us see whether *Grotius* has any better luck with his common and undivided Right of all things, &c. immediately from the time of the world repaired after the flood; which to prove, he refers to *Gen.* 9. 2. 3. *And the feare* (ὑμῶν) *of you, and the dread of you shall be upon every beast, &c. every moving thing that liveth shall be meat for you, even as the green herb have I given you all things.*

Observ.

Now then; if this were not given to *Noah* his Wife, and *Noahs* Children in subordination to *Noah*, but as *Grotius* would have it, in community, to all alike; then had *Sem* as much Right to all things as *Noah*, *Ham* as *Sem*, *Japheth* as *Ham*, *Sems* wife was an intercommoner with *Noah*, *Ham* with *Japheths* wife, and *Noahs* wife with them all, (if this be true, Mr. *Hobbs* makes *Noahs* Sons in an ill case, where he saies, *filium in statu naturali intelligi non posse*, no Son can be understood in the state of nature, and *Sem*, *Ham*, and *Japheth* are Bastards, and not *Noahs* Sons.) Well, if *Noah* and his Wife, his Son and their Wives had all things in common, that is, every one of them get what they could snatch to their own uses, and consume what might be consumed; from whence did *Noah* snatch his Vineyard, and drank the wine thereof untill he was drunken? If you beleeve *Grotius*, it was *Sems* Vineyard as much as *Noahs*; *Japheths* Wives as much as *Sems*, and *Hams* Wife had as much right to it as any body else. Poor *Noah*, thou hast taken great pains here to little purpose, if *Hugo* be thy Judge.

Annot. art. 10. cap. 1.

Verse 20.

Well, Mr. *Hobbs*, rather then he will run upon *Scylla*, shall split himself against *Charybdis*? and he makes *jus* to be the same thing with *libertas*, *and the foundation of* juris naturalis *to be, that every Man as much as he can, may defend his life and members*. And, *Natura dedit unicuique jus in omnia. Grotius* saies, *Erant omnia communia & indivisa omnibus, veluti unum cunctis patrimonium*. Which is all one and the same thing, differently expressed.

Cap. 1. art. 7. Art. 10. Lib. 2. cap. 2. Para. 2.

Thus far these Wits jump; we shall see them far enough asunder by and by. But Mr. *Hobbs* no where tells us, when this *Jus Naturale* was in the world; (sure it was when Apes could speak, and Owls sing.) They both agree too, that this was a time when there was no Government, or subordination of Men (nor Women, for ought I can find) under one another; before Men had made Government, by giving up their will to any Man, or Court. Mr. *Hobbs* calls this time, *Status merè naturalis*: *Grotius*, *Status qui durare non potuit*. A little before he says, *Quod quisque arripuerat, id ei*

Cap. 1. art. 10. Lib. 2. cap. 2. Part. 2.

eripere

eripere alter nisi per injuriam non poterat. Mr. *Hobbs* says, *It was not at all profitable to Men, that they had such a common Right in all things; for the effect of that Right is almost the same, as if there had been no Right at all: For although a Man might say of every thing, This is mine; yet he could not enjoy it because of his Neighbour, who with equal right, and force* (here the Wits begin to disagree) *might pretend the same thing to be his.* Nay, Mr. *Hobbs* goes further, and is so far from supposing it an injury to take any thing from any Man, in the state of pure Nature, that he makes this state *hostile, and that Men may kill one another, and yet do them no injury.* And the reason he gives for it, is, *That injury is done only to him, with whom we have made a Contract; otherwise it is only damage any Man can do to another.* Cap. 1. art 10. Art. 2. Art. 3. Cap. 3. art. 4.

Here we see these Wits plainly to differ; next bout we shall see them removed as far as *Gades* is from *Ganges.* Observ.

Grotius defines[a] *Jus naturale*, to be *Dictatum rectæ rationis, & à Deo ipso immutabile.* Mr. *Hobbs*[b] defines *Legem naturalem, non esse consensum hominum, sed dictamen rectæ rationis.* And,[c] *Leges naturæ sunt immutabiles; The Laws of Nature are immutable, and*[d] *the same with the Moral Law.* (Here Men begin to speak, and the Apes to hold their peace.) But Mr. *Hobbs*[e] makes *Jus* not only different, but also contrary to *Lex:* And therefore Mr. *Hobbs* his *Lex naturæ*, is contrary to *Grotius* his *Jus naturæ*; and both immutable. And now would I fain see some wiser man then either of these, reconcile these two Wits. (a) Li. 1. cap. 1. para. 10. (b) Cap. 2. art. 1. (c) Cap. 3. art. 3. (d) Art. 31. (e) Cap. 14. art. 3. Observ.

It is a miserable condition *Grotius* makes all Governors to be in, that they cannot make any Law which gives Property to any of the governed, (nor indeed, for ought I can see, can there be any Government by this mans grounds, for he confounds the relations) but that this Law must be against that Right, which God conferred upon Mankind generally after the Creation and Flood, and is so unalterable, that it cannot be changed, no not by God himself.

Let us see whether our *Author* can reconcile these two; (but for my part I much fear him, because I do not take him to be so great a Master of Reason, nor so Book-learned as either of the other two.) He in *Ground 6.* makes *Jus* or *Justum*, Right or Due, *to be when a man puts himself and his Promissary into a rank of agencie and patiencie, upon a new score.* And supposeth in the next *Ground*, a Company of Men without Government, whom (forsooth) he calls *a Rational Multitude*; but most absurdly (not considering where there is no Government, there can be no Law; and where there is no Law, there can be no Property, no *meum* or *tuum*) he makes *the Individuals of this Rational Multitude to abound with many goods, and to want others; the love of which, and the fear of losing them*, are his chief reasons why Government is necessary.

But it may be, the reason why these men agree no better here, is, because they are in the dark, where there is no Government. Well, we will see how they agree when they have the light of Government: And first, *Whether may the Subject resist Authority, or Government?* We will begin with our *Author*, because we left before with him. Our *Author* tells us, *In what cases it is rational not only to resist, but also to depose Government.* What those cases are, I cannot tell; He that has nothing to do, may look and see. But his last *Grounds* are; *Neither Lawyers, nor Divines, are Judges in those cases.* So then it seems, only the Devil, our *Author*, and they who be less book-learned then himself, are. Ground 14. Observ.

He

Ground 15. Ground 8. Ground 11,12. He tells us, *wherein the Liberty of the Subject consists.* He ties up his Supreme Trustee to *such Laws as the People entrust him withall*; and yet gives him leave *to do whatsoever he thinks good.*

Observ. The Governor and Governed are here in a very sweet and secure harmony; but no doubt our *Author* will judge both the one and the other very righteously and uprightly.

Lib. 1. cap. 4. para. 1. *Grotius, de bello subditorum in superiores,* states the question: In the five next Paragraphs seems to be in the Negative; but in the seventh Paragraph he makes it a weighty question, *Where there is Supreme Necessity?* For, *Certain laws of God,* says he, *although they be generally pronounced, have a tacite exception of highest necessity: Which thing was defined concerning the law of the Sabbath, by the Wise men, in the times of the Hasamonæans; from whence came that proverb,* Periculum animæ impellit Sabbatum: *which may be understood, The danger of the soul necessitateth a Sabbath; or, the danger of the soul destroys the Sabbath.*

Observ. *Grotius* here is for the destruction, or he is like to have small relief from this proverb.

Grotius. And *Judas,* as *Synesius* says, *gives this reason of his neglect of the Sabbath:* σαφῶς ὑπὲρ ψυχῆς φόβῳ, *We were brought into most certain danger of our lives. Which exception is proved by Christ himself; as also in the other law, of not eating the Shewbread.*

Observ. And yet all this, in this case, will afford *Grotius* but small relief. For, sins are twofold, either as they are omitted, or committed. Gods commands are omitted, or transgressed, either as they refer to God individually; or where they are omitted, or transgressed, to the wrong or injury of another. As here in the observation of the Sabbath; the omitting of which duty, was a sin only against God, for no man had any wrong done to him thereby: But, *Thou shalt not commit adultery, Thou shalt not kill, &c.* which if a man does, he not only sins against God, but does wrong to another. Admit, in case of necessity, God (who hath made all things for man, and man only for himself) hath dispenced with many sins which related only to him, for mans preservation; (yet by *Grotius* his good leave, we must not go too far; for I do not see then, how the primitive Christians should have suffered martyrdom, and not have symbolized, or resisted the Gentiles:) yet it does not therefore follow, that any man may pretend any necessity, (nor can any one shew that ever God did dispense withall) to transgress Gods command, and to do that wrong and injury to others, which is impossible for him to repair; as in Subjects making war against their Superiors; for what recompence can be given for the blood and destruction which they bring upon them who obey their Superior? And I hope neither *Grotius,* nor any man else, will deny it is lawful to obey Superiors.

Grotius. S. Matt. 10. 19. S. Luc. 13. 33. Yet from the authority of S. *Peter,* 1 *ep.* 2. 21. *& qui animam ita perdit, is vere eam acquivisse à Christo pronunciatur,* and the example of the primitive Christians, he seems to be in the negative.

Observ. But why in reason should he make Gods command to be in subornation to a humane constitution, and that not founded upon any command of his neither? I cannot tell. Well, see what he says for it: Here he has his *Notandum primò homines non Dei præcepto, sed sponte adductos experimento infirmitatis familiarum segregum adversus violentiam, in societatem civilem coiisse unde ortum habet potestas civilis, quam ideo humanam ordinationem Petrus*

1 Pet. 2. 13. *vocat,*

vocat, quamque alibi & divina ordinatio, quia hominum ſalubre inſtitutum Deus probavit. 1 Pet. 2. 13.

It there was never, nor can be a Family, where men be in a parity of condition; and that, as *Grotius* here ſays, Civil power was made from Families; then were not men in a parity and like condition, before they brought in the Dominion which is now in uſe: And therefore all his whole Treatiſe founded hereon, not only falſe, but repugnant and contrary to himſelf. And how is his *Notandum* that *Legal power is not made by Gods precept, but from the People*, proved by S. *Peter*? It is true, S. *Peter* calls it *an ordinance of Man*; but if this be not Gods ordinance of Man, it is inconſiſtible with *Rom.* 13 1. and with what he himſelf ſays immediately after, viz. *for the Lords ſake.* It is therefore the Lords ordinance of Man, and ſo quite contrary to *Grotius* his *Notandum.* Where to look for the Divine ordinance, becauſe God has called it a wholſom Inſtitution of Man, I cannot tell, nor care much. *Obſerv.*

Then *Grotius*, in ſeven Caſes together, gives leave to make war: But *ex hypotheſi*, how it can be of Subjects making war againſt their Superiors, I do not underſtand; unleſs it be in the *fourth*, where he ſays, *A King loſes his Kingdom, if he be carried with a hoſtile mind to the deſtruction of all the People.* For in none of the other there can be any ſubjection. But how any man ſhould be ſo mad, as being a King, he ſhould make himſelf worſe then any private man, by deſtroying his Subjects, I do not underſtand; and therefore *Grotius* might very well have left his 4. or 11. *Parag.* alone. The reſt of this Chapter is, *Wherein an Invader may be reſiſted.* He ſpeaks nothing againſt Uſurpation, for fear he calls his Countrimen in queſtion. So *Grotius* ſeems to leave it indifferent, whether there be a neceſſity of Subjects obedience. God expreſly, and the practice of the Primitive times were for it: *Certain Laws of God, although generally pronounced, have a tacite exception of higheſt neceſſity*, ſeems to be againſt it.

But Mr. *Hobbs* outruns the Conſtable, and [a] *makes the King or* Civitas *not only impunible for whatſoever he ſhall do*; and [b] *indiſſolvable by that power that made him*; [c] *And that the King or Supreme power is not bound by its own Laws*; And [d] *that no man has any thing proper againſt it*: But alſo [e] *this* Civitas, *or Supreme power, has power to examine what doctrine ſhall be taught, againſt which none ought to ſay any thing contrary*: *For*, ſays he, *if any one may command one thing upon pain of natural death, another forbid it upon the penalty of eternal death, and both by right; it will follow, not only Citizens, although innocent, may be juſtly puniſhed, but the City diſſolved; for, No man can ſerve two Maſters.* (a) *Cap. 6. art. 12.* (b) *Art. 20.* (c) *Art. 14.* (d) *Art. 15.* (e) *Art. 11.*

True, not actively, where they command contradictories. Yet ſo it pleaſes God, that not all who love and ſerve him, ſhould go to heaven upon beds of roſes: Nor is any man a loſer, if God for his temporal affliction, crowns him with eternal happineſs. And therefore where it pleaſes God to give (and not the People make) wicked and idolatrous Princes, for the ſins of a Nation; there muſt good men expect perſecution and affliction. And if Mr. *Hobbs* ſays true, then muſt no man ſpeak againſt the *golden Image Nebuchadnezzar had ſet up*; nay, every man ought to fall down and worſhip it; for he ſays, *Obedience is not rightly diſtinguiſhed, if it be diſtinguiſhed into active and paſſive.* But Mr. *Hobbs* has a help for this; for he ſays, *The City may command ſuch a Worſhip of God, as is irrational*; *But if it be done at the* *Obſerv.* 1 Pet. 2. 21. S. Matt. 10. 39. S. Lu. 13. 33. Dan. 3. *Cap. 4. art. 23.* *Annot. art 7. cap. 15.*

com-

Cap 15. art. 18 *command of the* Civitas *to which the written Word of God is not known or received, he has shewed such a Worship of God to be rational.* But, says he, *Men must have a care that they do not worship God so, where he reigns by Covenant, as*

Observ. *by the Covenant of* Abraham; *for there it is ill done, whether it be done by the command of the* Civitas, *or not.*

But whether as among the *Jews* heretofore, or with the Christians now, (for I hope he will not deny God to reign as much over Christians by Covenant, as ever he did over the *Jews*) how can any Man obey both, where contraries are commanded, if there be no passive obedience? Yet he makes it an easie thing to obey both God and Men actively, in the last *chap.* by distinguishing between things necessary, and not necessary to Salvation; as if humane power did never, nor will forbid things necessary to Salvation; but then Men may save themselves by saying one thing, and meaning ano ther, and making themselves Hypocrites, to whom alwaies our Saviour pronounceth woes.

We find but small consort yet between these three. Our Author *makes it Rational for Subjects to resist and depose.* *Grotius* seems not to think so, both by the precepts of God, and the practice of the Primitive Christians, unless a King goes about to destroy all his Subjects. Yet too he saies, *Gods precepts, many of them, though generally pronounced, have a tacite exception in case of highest necessity,*

Observ. But how shall I know whether in this? and therefore it is much better to obey, then venture to break Gods positive command. But Mr. *Hobbs* makes *a subjection of Body and Souls absolutely, where God reigns not by Covenant; and there too by distinguishing between things necessary, and not necessary to Salvation.*

Since there is so much contest about the power of the People, let us

Annot. art. 1. cap. 6. see what these three understand by the People. Mr. *Hobbs* understands by the People the *Civitas* which commands, wills, and does by the Will of one Man, or by the agreeing Wills of more Men, which otherwise cannot be done in an Assembly. *Grotius* no where that I know of, defines what he means by People: But our Author in the seventh *Ground*, when there is no Government, makes them a Rational Multitude; and when they have made themselves a Government, then (forsooth) to be a People.

Salus populi suprema lex, is when the safety of the people or Subject is in danger; then the supream Governor is not to take notice of any Mans particular interest whatsoever, he has sworn to the contrary; as when an Invasion, &c. is made, though the King at his Coronation has sworn not to oppress nor take without their consents, from any of his Subjects, any thing, which any of his Subjects hold of him, or any of his Predecessors; yet rather then an Enemy shall be relieved by any of his particular Subjects, to the endangering of the rest, he then may destroy it, for the safety of the people is the highest Law: and the end of all Government is, the preservation of the Subjects in general; and in such cases the lesser evil is to be chosen; and no Laws but will suffer a mischief, rather then undergoe an inconvenience: And therefore could not the Dictator be questioned for any thing done during his Dictatorship, because of the danger of the people; and so the *Romans* alwaies understood this Maxim of *Salus Populi suprema lex.*

Let us see whether these Men leave Posterity in any better condition, then they make the present Age, and see how they agree about succession,

and

and whether a Kingdom may be aliened by the preſent King, or he name his ſucceſſor. Here we muſt look upon *Grotius* either naturally, or relatively, and yet too, as neither: As he is naturally a *Hogan Mogun*, he makes the King an Uſufructuary only, and then he ſaies *he can alter nothing at all, neither in part nor in the whole:* And ſometime like a Mercenary ſtipendary to *Lewis* the 13. againſt all his precedent grounds of the power of the People, and of Kings having originally all their Power from the contracts and agreement of the People, which *yet does not ceaſe their power*, he makes neither King nor People judge of ſucceſſion, for he ſaies, *the People have transferred all juriſdiction from themſelves upon the King and his family, neither during that, have the People any relicts of it*; and yet he makes it a very hard queſtion, whether the People may alter ſucceſſion as to them who are not yet born, and determineth it affirmatively in theſe words, *Quare ſi populus, à cujus voluntate jus regnandi proficiſcitur, voluntatem mutet, iis qui nondum nati ſunt, ut quibus jus quæſitum nondum eſt, nullam facit injuriam*; and the reaſon he gives (forſooth) is a very ſorry one, and a ſimilitude, *Ejus qui nondum natus eſt nullum eſſe jus, ſicut nec ulla ſunt accedentia rei non exiſtentis.* Nay he does not ſtay here, but goes on and ſaies, *ſicut autem populus expreſſe mutare voluntatem poteſt, ita & tacite credi mutaſſe.* But who ſhall be Judge of this implicite Faith, he ſaies not one word. Becauſe of the damnable conſequents, which muſt needs follow from this determination, we will examine all the parts of it.

Lib. 2. cap. 6. Para. 11.

Lib. 2. cap. 7. Para. 27.

Lib. 2. cap. 4. Para. 10.

He almoſt every where makes a great ſtir with *populus, & populus vult, & populus mutare poteſt voluntatem expreſſe, & tacite*; but never (that I can any where find) defines, what the People is. If he had ſaid the People of *Rome*, or the People of *Athens*, or the People of *Syracuſe*, he had ſaid ſomething, though nothing to his purpoſe. For when a Man ſpeaks of the People of *Rome*, or *Athens*, &c. he ſpeaks not formally of Men, as born in the *Roman* or *Athenian* territories; but as men who were *civitate donati*, which it may be were not the tenth part of the *Romans*, or *Athenians*; nor were ever the *Roman*, *Athenian*, or *Syracuſan* People, free People *jure naturali* (as he ſaies) but by Civil ſanction, having made themſelves ſo, unjuſtly uſurping dominion over the reſt in their Tyranny and Dominions. It cannot be then that *Grotius* means by People, ſuch People as were the *Romans* or *Athenians*: If by People he means any thing in the world, for above this 1700 years, there have not been any ſuch upon the face of the earth (if the Inhabitants of *Switzerland* be not ſuch, who taking advantage from the remiſs Government of *Wenceſlaus*, having beaten the Archduke *Leopoldus* about the year 1400, made themſelves a Democracy, and have almoſt ever ſince continued Mercenary Man-killers to the intereſts of the Pope, the Kings of *France* and *Spain*.) *Grotius* then not meaning ſuch People, as were the *Romans*, &c. I cannot imagine what he ſhould mean by People, unleſs he means Men, Women, and Children of all ages and conditions, all of them in a parity or equal condition, abſtracted from all Laws of God, or Man; and what a Harmony of Confeſſions would ariſe from ſuch a rout, any ſober wiſe Man may judge? Thus much for his *populus*.

Well, but be the People what it will, a beaſt, or no beaſt, a thing, or nothing; it is from its will, all right of reigning proceeds, a *cujus voluntate jus regnandi proficiſcitur*. What, all Right of Governing, or Regal Power proceed from the People? faith, let *Grotius*, or any of his followers ſhew ever ſince the beginning of the world any King made by the People,

Obſerv.

and I will grant him all the rest, be it what it will: But see whether *Grotius* hath not a forked tongue, or not? here, and in twenty places more with *Notandum*, &c. he makes all Regal Power to be from the wills of the People. In his Epistle to *Lewis* the 13. he saies, *How beautiful, how glorious, how joyful to your Conscience will it be, that when God shall have called thee to his Kingdom, which alone is better then thine, thou maist confidently say: I have received this sword from thee for defence of Justice; this sword I return to thee, pure and undefiled, rashly guilty of no bloodshed.*

Observ. So that if he saies true, that *Lewis* the 13. had his sword of Justice from God, then does he say false here, and in twenty places more, that all Power of Governing is from the wills of the people.

Well, but let us suppose a King made by the People; which is the party governing, and which is the party governed? all Government being in the predicament of Relation, where there is any one to govern or command, there must be another to be governed and commanded. Well then, here are two, the People, and the King made by the People, the one to govern, the other to be governed. Say now which is the party governing, the King or the People? it cannot be that the King should be the governing party, for he is but a Creature, and a thing made by the People, and the Creator cannot be ruled and governed by the Creature; the People then must be the party governing, and the King must be the party governed; the King therefore of *France* (whom he so much flatters) and all other Kings whatsoever, from this determination of *Grotius*, are the governed party, and the People their Subjects are the governing party. If therefore it be impossible to serve two Masters, who by equal right command, I would fain know how it is possible for a King to obey above Ten hundred thousand, every one of his Subjects having as much right to command him as another? and it is very like indeed to be a very well ordered Government, and much conducing to the benefit and safety of the People, where there is many Hundred thousands commanding, and one individual person obeying.

But good Man, he is very careful, that though the People give Kings all their Regal Power, that they part not with too much; nay though they make Kings, yet if you beleeve him, they part with nothing at all, for *Lib. 2. cap. 16. Para. 16.* otherwhere he saies, *Imperium quod per Reges exercetur, non desinit imperium populi.* Is not here a pretty play of a King, and no King? a King without Power, and a People with all Power? So that at the same time, that he flatters *Lewis* the 13. by telling him, neither King nor People are Judges of his succession, he had before given the People of *France* a power of altering the right of succession, without doing any wrong to his Son *Lewis* the 14, who now rules; for he was *res non existens* when he wrote this book *De jure belli & pacis.*

Lib. 2. cap. 7. Para. 25. Sometime neither as *Hogan Mogan*, nor stipendary to *Lewis* the 13, directly, where he saies, *In alienable Kingdoms the King may disinherit his heir.*

Observ. Who gave him his Fee to say this? We cannot think it was *Lewis*, he denies all his Grounds to pleasure him; yet *latet anguis in herba*; it may be, because *Henry* the First was younger Son to *Robert*, and *Robert* dispossessed his eldest Son who bare his name, and made his younger Son King, from whom *Lewis* derives himself. But how then can this stand with the 27 *Para.* *that neither King nor People are Judges in succession?* or if *Power which* *Lib. 2. cap. 16 Para. 16.* *is exercised by a King, does not cease the Power of the People*, then cannot

not Kings give away their Kingdoms, nor disinherit their Heirs, for *delegata potestas non potest participari.*

Well, let us see his reason for this: He says, *Such a Kingdom is like other alienable goods.* Here the right of the alienation of a Kingdom is well proved, *viz.* I may give a poor man a penny; and therefore a King may disinherit his Heir, or give his Kingdom to whom he pleases. And so he says, *Jacob did disinherit Ruben.* What Kingdom was then given by any people to *Jacob*, to which *Ruben* was Heir? Besides, for ought he knows, or can find by *Cicero, Tacitus, Demosthenes, Cleon*, or any tale told by any Poet, the time when *Jacob* lived and died, was then when all things were common and undivided; and how then could *Jacob* disinherit *Ruben?*

Observ.

Observ.

Another Instance for the right of Alienation, is of *Davids* disinheriting *Adonijah.* Whether this be true, read 1 *Chron. cap.* 28. *v.* 5, 6, 7. *And of all my sons (for the Lord hath given me many sons) he hath chosen Solomon my son to sit upon the throne of the kingdom of the Lord over Israel. And he said unto me, Solomon thy son, he shall build my house and my courts; for I have chosen him to be my son, and I will be his father. Moreover I will establish his kingdom for ever, if he be constant to do my commandments and my judgments, as at this day.* Nor was it for any crime *Adonijah* did not reign after *David*; for *David* had sworne *Solomon* should reign, before *Adonijah's* usurpation, 1 *King.* 1. 13.

Grotius.

Observ.

Mr. *Hobbs* makes no doubt, but *a Monarch may choose his Successor, and by his will dispose of the Supreme power of the City.* And in the next Article *he gives him leave to give it, or sell it to whom he will.*

Cap. 7. *art.* 15. *Cap.* 9. *art.* 12.

King *James* was observed to make his Honors vile, because he exposed them to sale, and so conferred them upon unworthy men, not as they deserved them, but they were able to pay for them; thereby to satisfie his hungry Countrimen, who were daily begging boons of him. How vile would this man make Majesty? how light the ligeance which is due not only by nature, but by oath, from all Subjects to their rightful Soveraigns? And, *The Crown of* England *has been so free at all times, that it hath no earthly subjection, but immediately subject to God touching the regality of the same Crown, and to no other.* And it is declared by the Lords and Commons in Parliament, upon demand made by the King, *That they could not assent to any thing in Parliament, that tended to the disinherison of the King and his Crown, whereto they are sworne.* How this can be consistent with this mans Sale of Crowns, I do not understand.

Observ.

St. 16. *Ric.* 2. *cap.* 5.

Sir *Ed. Coke, Inst.* 4. *par. p.* 15.

Our *Author* is so in love with his *Supreme and Absolute Trustee*, that let him but do what he list, and he may say with *Tiberius Cæsar*, Ἐμοῦ θανόντος γαῖα μιχθήτω πυρί; *When I am dead, let the earth be mingled with fire.*

Bodin, in the last Chapter of his *Republique*, because neither from *Plato's* nor *Xenophon's* opinion, he can find Justice to consist in Geometrical nor Arithmetical proportion, will therefore have it to consist in Harmonical; he not understanding harmonical proportion: For he makes it consist in four terms, *viz.* 4. 6. 8. 12. and what proportion 4. has to 6. he supposes *Lex* to have to *Æquitas*; and what proportion 8. has to 12. (which is the same with 4. to 6.) has *Legis actio*, to *Judicis officium*; and what proportion 4. has to 8. has the Law, to the action of the Law; and what proportion 6. has to 12. (which is the same with 4. to 8. *viz.* double) has Equity, to the office of the Judge.

He has indeed taken four numbers, out of which Arithmetical and

Harmonical proportion may be taken; as 4. 8. 12. is in Arithmetical proportion, and 6. 8. 12. is in Harmonical; but 4. 6. 8. 12. is in Geometrical proportion. Harmonical proportion is, when three numbers are so ordained, that the proportion of the greatest number to the least, is the same with the differences between the two greater, and the two lesser: As in these three numbers, 6. 8. 12. the proportion between 12. the greatest number, and 6. the least number, is double; and the difference between 12. and 8. the greater numbers, is 4. and between 8. and 6. the lesser numbers, is 2. and 4. is the double of 2. And therefore 6. 8. 12. are in Harmonical proportion. 8. to 6. is *in proportione sesquitertia*[a], which makes *Diatessaron*, or a fourth Note in Musick. 12. to 8. is *in proportione sesquialtera*[b], which makes *Diapente*, or a fifth Note in Musick. 12. to 6. is *dupla proportio*, a *Diapason*, or an Eight. All other Notes are in *proportione sesquioctava*[c], Nor can Harmonical or Musical mediety consist in four terms or numbers, as *Bodin* would have it. But if either Justice, Equity, or Harmony be comprehended in the Writings of these three terms, *Grotius*, *Hobbs*, and *White*; then let me never expect Justice but from a *Committee*, nor Equity but from the University of *Bethlem*, and be eternally doomed to the Noise that is made at the Yelling of *Tom Sternholds* Psalms.

To what a condition here would these men reduce Mankind! For, what a condition are men in, where there are no Laws? To what purpose are Laws, where there are not they who may bear rule? *Parum est nisi sunt qui possint jura gerere.* And who would look for Rulers out of these mens Writings? where men must cut one anothers throats, to find them; and when they are found, then must men subject themselves to them, either body and soul actively, and not passively only, that is, suffer, when in their consciences they dare not act; or else to obey so long as the fickle and inconstant Multitude will pretend a necessity of rebelling or resisting, or judge it rational to resist and depose; and so to the old trade of cutting throats again: Whether this thing, or that thing? this man, or that man be Supreme? And after all this shall the poor Hobnail be no wiser, nor in any better, but much worse condition then he was before.

It is rarely seen, that where men are not content with those Heirs which God gives them, that God does bless those men which are put in the place of such Heirs. But without all question, where Subjects are not content with what Soveraign God gives them, God did scarce ever bless any such as they made to themselves. And let any sober man consider, into what a miserable condition such Subjects or People have brought themselves: For they must needs live in continual fear, lest the true Heir should recover his right against him whom they have set up. But suppose that there be no fear that ever the right Heir should come into his place; yet they have given a president to all Posterity, not to submit to this whom they have set up: For why in reason should Posterity be obliged to obey this, whenas they were not bound to obey the right Heir? Neither was Subjects condition under Monarchy ever so bad, but the endeavoring to reform it by force of Arms, has made it much worse. The examples of this are infinite. It is usual therefore, where Subjects have taken up Arms and deposed Government, to alter the *Species* of their Government. For this, if the Government be converted from *Monarchy* into any other, See Mr. *Hobbs Annotation* upon the 3. *Article* of the 10. *Chap. De Cive.*

FINIS.

(a) It self and a third part; for 4. is 3. and a third part of 3.
(b) It self and half as much. 12. is 8. and half 8.
(c) It self and an eight part; as 72. contains 64. an eight part of 64.
Suppose *Ela* 64. *D-la-sol* is 72. *B-fa-bemi* is a fourth from *Ela* inclusively 85⅓. *Ala-mire* is a fifth, it self, and half so much. 96. *Elami* is an eight from *Ela*; 128. double to *Elu*. Multiply 64. and you may take the *Gamut* infinitely in rational numbers without fractions, as from 512. and so forward.

See Sir *Edw. Coke Instit.* 3. p. 35, 36.

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POSTSCRIPT.

The Obſervators charge againſt his Adverſaries grounds and ſuperſtructure, wherein they all agree.

SInce there is ſo little harmony between theſe Three in their ſuperſtructure, not only to one another, but alſo to themſelves; it would make any man ſuſpect, if there were nothing elſe, that their grounds were falſe. We will therefore, before we ſtate our own principles and ſuperſtructure, ſet down theirs, and ſhew wherein they all agree, and wherein we differ. And,

1. Herein do all my three Adverſaries and I differ: They all ſay, that by Nature all men are in a like equal condition, and out of ſociety, until by voluntary pacts and acts of their will they ſhall have formed themſelves into ſociety. I ſay, that men are by Nature born into ſociety and ſubordination. To warrant this, I have not only the conſent of the preſent Age, but the conſtant practice of all Ages in the world, from the teſtimonies of all Prophane and Sacred Hiſtory; and that not only ſince the Flood, but before, if God made *Adam* an univerſal Monarch, as well over his wife and children, as over all other creatures; and that that there was a conſtant ſucceſſion of the Patriarchs in the Firſt-born, from *Seth* to *Noah*. Whereas none of them can give teſtimony of one man in the world that ever lived out of Society, or tell when, or who firſt violated Nature ſo as to introduce it; and from whence it hath ever ſince continued all over the world, againſt the right of Nature.

2. They ſay, All power in Government was originally in the People. I ſay, that for above three thouſand years after the Creation (excepting the *Locedemonian* Duarchy) was no Government but only Monarchy; nor was there any of them derived from the People: And that whereſoever ſince the Creation, the People did aſſume to themſelves the Supremacy, they did it by unjuſt uſurpation. Beſide Nature, I have almoſt infinite places in Sacred Writ to warrant that all Supreme power is from God immediately; They, no colour of any one.

3. They making men by Nature to be out of ſociety, and by acts of their wills to be in ſociety, make Nature to be depending and ſubſervient to the wills of men; whereas Natural cauſes do immediately proceed from God, and are above the will of man. Society therefore being natural, the actions of the wills of the moſt perverſe and wicked men in the world could never make them out of ſociety; but where they would not be commanded by their rightful Superiors, fell a commanding and obeying among themſelves.

4. They all not only invert Nature, and make Wills and Pacts ſuperior to it in the cauſe of Society; but all of them make the natural relations of rightful Princes and Subjects to be diſſolvible by the wills of men; yet after a different manner. *Grotius*, when there is a neceſſity, makes them diſſolvible by the Subjects: Our Author, when the Subjects judge it reaſonable: And *Mr. Hobbs*, when the King or *Civitas* will give or ſell the relations. Whereas Regal power being Gods ordinance, is therefore ſuperior to mens wills, and cannot be aliened or diſſolved by the will of man.

5. They all not only invert Nature, and make it alterable by the will of man; but make the Law of Nature, or God, to take its origination from the civil pact or will of man; whereas the Law of Nature is eternal and immutable by the will of man, and connatural with every man, and always had, and ever shall have a like obligation upon all men in all ages and places.

6. I say, They not only blasphemously make Nature and the Law of God alienable, and depending upon the will of man; but also most illogically confound the relations of agencie and patiencie in the same subject, and make the *Cives* to constitute the civil pact, and to be subject to it; whereas *Omnis potentia activa est principium transmutandi aliud.*

7. They invert Grammatical construction, in making the *Cives* who constitute the *Civitas*, the patient or governed; and the *Civitas* who accepts the wills of the *Cives*, to be the agent or governor: Whereas the contrary is true in both; for, *Obligans* is the governor who does will, and *obligatus* the governed who accepts the will of the governor.

8. They all most ridiculously make the Creature, the *Civitas*, superior to, and the Governor of the Creator, *viz.* the *Cives*; whereas it is impossible any Being should be prime or superior to the cause of its being.

9. They all of them make the *Cives* to endue the *Civitas* with that which none of them have either separately or conjunctly, *viz.* a power of life and death, and creating property; whereas *Nil dat quod non habet, & nemo potest transferre id in alium quod ipse non habet.* If all these things be true, and that I have not unjustly charged them in my *Observations*, how contrary they are not only to one another, but to themselves in their superstructure; then let the world judge, especially you my dear and native Countrymen, whether grounds so unnatural, so blasphemous, so illogical, so contrary to common sense and grammatical construction, so ridiculous and impossible, should be worthy to be accounted the Principles of Humane society: Or whether they ought not to be exploded by mankind, as fit for nothing but to abuse ignorant men, and to open a gap for Sedition and Atheism. If I have here, or heretofore unjustly charged them, two of my Adversaries are alive, and of age, and may answer for themselves; and no question but *Grotius* hath followers enough who may vindicate him, if he hath wrong done him. Or if I have committed any of these things, in these *Elements*, let them make it appear, I will thank them for it.

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ELEMENTS

A Premonition to the Reader.

Beside that part of this Treatise, which shews the causes and means by which men attain Arts and Sciences; in this Preface, Observations *and* Elements, *I have designed three things. First in the* Preface, *I designe to demonstrate, That it is impossible that the Cause of Humane Society should be originally created by the pacts and wills of men; and the occasion of writing these Observations. Secondly, in the* Observations, *I designe to shew, That the Causes of Humane Society do not appear from these mens Grounds and Principles. Thirdly, in the* Elements, *I endevour to demonstrate the Causes of all Humane, Christian, and Legal Society. And if any of my Adversaries, or any man else, shall shew me any errors in any of them, I profess I will ascribe it as an act of Friendship to him.*

I have one request more to the Reader, *That he would look upon all these* Elements *and* Observations *(except one half-sheet added to the* Observations*) to be passed the Press, before His MAJESTIES Acknowledgment or Restitution; until the last Book, or one sheet or two of the Fourth Book of* Justice, &c. *And to insert in pag. 9. of this* Preface, *line 22. after--*[For which no reason can be given] —— *what is contained in the Margin, from* — [These things thus premised, &c.]

TO

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ELEMENTS
OF
Power & Subjection:
Or the Causes of all
Humane, Christian, & Legal
SOCIETY.

Vir bonus est quis?
Qui consulta Patrum, qui Leges juraque servat.

By ROGER COKE.

LONDON:
Printed by T. N. for G. Bedel and T. Collins,
at the Middle-Temple Gate. 1660.

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TO THE READER.



MAns thoughts of Life, and Living, are odd things, pritty Antitheſes, he thinks his whole Life (though he ſhould live a Thouſand years) too ſhort; and yet every day, nay hour of his living, too long. Vicious Men therefore miſplace their happineſs, in entertaining worldly pleaſures, thereby to delude, and ſpend their time, which they deſire ſo much to continue in their Life, that in their living, it might not ſeem to be. Virtuous Men have the ſame thoughts of Life and living with vicious Men, but their actions diſcern them: For thoſe hours, which in their Life would otherwiſe ſeem tedious to them, they entertain either in the Contemplations of God, or his Works; or by doing virtuouſly, ſweeten thoſe ſowre effects, which idleneſs cauſes: So that the old Philoſophers would affirm,

That not Years but Virtue ſhould be the meaſure of Mans life. And this reward hath God (the Author of Virtue in Men, as *Plato* divinely affirms) given to virtuous Men, that they not onely take pleaſure in remembring time paſt, but alſo hope well in time to come, notwithſtanding all the frowns of perverſe and wrinckled Fortune; whereas vicious Men are onely pleaſed with deceiving the preſent time, aſhamed to look back upon their actions paſt, and affrighted upon the apprehenſions of death, and worldly calamities which (notwithſtanding all their *Proteus* ſhapes and *Janus* faces) happens to them, as well as virtuous Men, in time to come.

Meno: prope finem.

There is no time wherein virtuous Men may not contemplate God either as God, or in his Works, or do well; whereas many times vicious Men (though never ſo rich and able to maintain their Vices) are either wearied with them, or have not means to attain to what they call the fruition of them; and then they may be truly accounted miſerable, becauſe they know not what to do, and are neither pleaſed with the remembring of what is paſt, nor can hope well in time to come. And indeed, no Man is ſo miſerable as he who knows not how to entertain a day, but by being vicious in it. Vicious Men deſire that all their actions ſhould be buried in oblivion with them, and will make it a cauſe of quarrel for any Man to mention thoſe things they daily do as their actions; whereas it is onely Virtue that does eterniſe Men to all Poſterity; for the whole Earth is a Monument for famous Men, and their Virtues ſhall not onely be teſtified by inſcription of Stone at home, but by an unwritten

Record

Record of the Minde, which more then any Monument, will remain with every one for ever.

Sir *Francis Bacon* in his Life of *Henry* the Seventh, compares Times to Ways, whereof ſome are more uphil and downhil, ſome are more plain and even; the one is better for the Reader, the other for the Liver: Sometime it pleaſes God that Virtue ſhould be (as it were) ſo in faſhion, That to be virtuous, is commendable, and rewarded; other while, Virtue is not onely perſecuted by all the contrary names, but virtuous Men are butchered, impriſoned, ſequeſtred, *&c.* and for no other cauſe but onely their Virtue. *Tacitus* accounteth it a rare felicity of the Times, whenas an Hiſtorian may without danger Record the Hiſtory of the Times.

Polybius affirmeth of truth, That ſhe ought to be eſteemed of Men as the greateſt Goddeſs, and that the greateſt Power ought to be attributed to her: For though all Men oppoſe her, and ſometime many kinds of veriſimilitudes and appearances ſtand againſt her for a Lie; yet I know not how, ſhe by her ſelf inſinuates her ſelf into the mindes of Men: And ſometime on the ſudden ſhews how potent ſhe is; and ſometime after ſhe hath been along time obſcured by darkneſs, at length of her ſelf prevails, and expugneth the Lie. If a Man vary the terms of Truth and Lie, into Virtue and Vice, this affirmation will not leſs hold true. Virtue was never ſo oppreſſed by Ignorance and Faction, but that the virtues of good Men ſhall finde honorable mention afterward: And Vice and Faction, however cryed up at preſent, ſhall hereafter be fully laid open, and their deformity diſ-

Proem Hiſt.

covered

covered to all Posterity. Virtue is the same in all Ages, and most amiable in her simple nakedness: and it is Vice which hath need of false glosses, and hath such specious shewes and pretences put upon it, to make it seem Virtue, which fucous and false paint continues no longer then the present Faction.

Of all Virtues next after Religion, Justice is the most worthily ranged in the first place, not only as including all other Virtues, but as excluding it all a Mans actions are rendred as Vile and contemptible, other Vices are like Moats in running waters, (and the smallest Moats are easilest seen in purest streams) but injustice is like the poysoning the Fountain, which corrupts all the stream. There is no Man that is so perfect, but some spots and stains may be spied in his actions, which are soonest spied in the best Men; but no Man (Heathen or Christian) can deserve the least reputation of being good or Virtuous, who is an unjust Man. It was not *Alexanders* Venery, Ryot, Drunkenness, and Captivity to the *Persian* Effeminacy (Vices though bad enough) but his *occidit etiam Callisthenem*, that was put in Counterpoiz to all his Virtues. It is Justice, which (next after the most immortal, greatest best God and Religion) fabricates, connects and establisheth Nations and Kingdoms in Unity and Peace. It is injustice which (next after Gods punishments for their sins) subverts them to the ruine of the greatest part of the inhabitants; so that Justice deservedly hath the pre-eminence of Virtues next after Religion, and Injustice is the foulest and vilest of all Vices, after Atheisme.

Senec. de beneficiis.

Though

Though Juſtice be ſo high and noble a Virtue, yet I think there was never any thing by learned Men (as *Xenophon*, *Plato*, *Ariſtotle*, *Bodin*, *Grotius*) more miſtaken. Not that I deny but that many Virtuous Men from their innate good nature, have in their actions practiſed that, which hath been rarely well defined; like Men who by a habit ſpeak well, yet cannot give a Grammatical conſtruction of their ſpeech; or like the *Romans*, who though the *Grecians* were beſt at the Theory of Rhetorick and Poetry, were the beſt Orators and Poets; or like the Phyſitians, who in blood-letting ſuppposed the circulation of the blood, yet none aſſerted it before the moſt renowned Philoſopher Doctor *William Harvey*; or like a Muſitian, who compoſes well, yet underſtands but little in the Theory of Muſick.

For my part, as I hate Flattery as one of the baſeſt Vices, and the moſt inconſiſtent with Ingenuity, or Integrity, ſo had I much rather that theſe Elements ſhould be ΚΤΗΜΑΕΣΑΕΙ, though a preſent ſufferer for them, then by any ſiniſter means to attain to any greatneſs whatſoever.

All things are at firſt appearance, curiouſly ſcanned, and cenſured by Men, it may be moſt by them, who leaſt underſtand them; for, *Nihil eſt facilius quam reprehendere alium.* I deſire nothing elſe of any ingenuous Reader, then that in cenſuring any thing in this following diſcourſe, he would declare what he would have inſtead of it.

Carpere vel noli noſtra, vel ede tua.

I know it is *Humanum errare*, and I not having a beaten path to direct me to my journies end, and being unfit for so great an undertaking, although supplied with greater helps then I have found, shall very probably be subject to stumble, having had so dark and feeble means to keep my self upright. However, in all this Apostacy of Men in general, from all Faith, Religion, and Moral honesty, I have endeavored to shew from what causes, all Vitues as well Theological, as Moral, flow; and that Men by forsaking them must necessarily fall into all those calamities, and confusions which now involve us. Whatsoever therefore my errors and defections are, they ought rather to be forgiven, then to cause anger in any candid Reader: for my part, I profess ingeniously, I will ascribe it an Act of friendship in any Man, who shall direct my going in a more plain path, or shew me where I have strayed out of the way, by treading in this.

THE

THE APPARATUS:

OR,

The different Nature of Man from other Creatures: And why only Government is necessary to Mankinde.

SInce there is nothing more manifest, then that there is every where in the World *Government*; for no man can say, That this thing is his, or that thing another mans, but he must presuppose a Superior Power, which gave him, and the other man a Right in this, or that thing: And since from the evidence of all Sacred and Prophane History, no time was ever recorded, in which men were not in subjection to one another: And since from* these mens Principles, it is not possible that any Power in Government can be derived; For to suppose by the Law of Nature all men to be equal, and to have a common and undivided Right to all things, it is impossible that they can create a power which may give Law, Property, and Power of Life and Death, when as they themselves have none at all. But suppose all Men are by nature equal, and yet have a right to create a supream Power, which may give Property, yet then it must follow, That all the Men of the World must be subject to one Individual Government: For *ex hypothesi*, the Inhabitants of *Greece* have as much right to all the things in *Britain*, as the Inhabitants of *Britain* have; and the Men of *Spain* have as much right to all the things in *Italy*, as the *Italians* have; and so have the *French* to all things in *Italy*, *Germany*, *Persia*, *&c.* Nor can the Inhabitants of *France*, *Germany*, *Spain*, *&c.* frame to themselves any Government; for *ex hypothesi* by the Law of Nature, the *Persians*, *Indians*, *Muscovites*, *&c.* have as much right in *France*, *Germany*, *Spain*, *&c.* as the *French*, *Germans*, and *Spaniards* have. And to suppose, that by the Law of Nature all Men have all things in common; and to suppose, that whatsoever is or shall be renewed in *Spain*, *England*, *France*, *&c.* is due by the Law of Nature only to *Spaniards*, *Englishmen*, and *French*, *&c.* is to suppose a contradiction and impossibility.

* *Viz.* Grotius, Hobbs, White.

Nor is that Fancie leſs groundleſs, which ſuppoſeth that Regal power or government was firſt inſtituted from an aggregation or conſent of Families: For how is it poſſible there ſhould be a Family, where there is no Supreme power which gave Property, in that place and habitation where that Family is? Nor where there is no Law precedent obliging, can it be expected that any man will (where he may be free at his own pleaſure) be a Servant: Nor can it in reaſon be ſuppoſed, that any man will contract with another to be his Servant, whereas he may as well expect to be his Maſter. It ſhall be therefore our endevour to find out the true Cauſes and Principles of Power and Subjection. But before we proceed, it will not be amiſs to ſee, in a ſhort view, the natural difference between Man and other Creatures of this inferior orb; and why Humane or Politick Government is only neceſſary to Mankind.

Of all the Creatures of this inferior orb, only Man uſes Reaſon; by which with the help of his Memory and Experience, he proceeds from things manifeſt and known to the Underſtanding, to find out things leſs known, and more obſcure: yet ſtill ſo, that ſubſequent Generations may infinitely adde to what precedent Ages had found out; whereas other Creatures do by an impulſe of Nature (being taught of no Creature, nor from any obſervation by themſelves) infire and connatural with them, at firſt attain to ſuch perfection, that in ſucceſſion of time nothing is added to it. Thus we ſee all Birds at their firſt trial make their neſts with as much art and ingenuity, as thoſe that do live longeſt; And ſo the younger Bees make the honicomb as perfect as thoſe who had done it twice or thrice before. And certainly it is an admirable thing to conſider, with how great providence theſe ſmalleſt Creatures and imperfect Animals do chooſe out places for their conceptions, even before they be living creatures, and but only ſo in power; and with what unimitable art they build, fortifie, and hide the place wherein they repoſe them. I have ſeen an *Indian* Birds neſt, which was made upon a ſmall bough growing over waters, which bough was too weak to ſupport the weight of a Monky, (the Monkies in thoſe parts of *India* uſe to prey upon young Birds) and provident Nature points out theſe places to thoſe Birds for the ſecurity of their young ones from the Monkies; for of all terreſtrial creatures, only Men and Monkies, and their kindes, ſwim not naturally; and the Monky, if he in ſeeking to get the young birds, falls into the water, drowns himſelf.

I have with great admiration ſeen Frogs (which are uſually generated in the moneth of *March*) confidently and careleſly ſwimming croaking upon one another upon the ſurface of the water, whenas Horſes and other cattel have been there; but upon the coming of Ducks (who naturally prey upon and devour them) they have been all huſht and gone, and not one to be ſeen: It being ſure worthy admiration, that Providence ſhould ſo direct thoſe ſpurious and imperfect animals, and but of yeſterdays being, and not of much longer continuance, to know without any apprehenſion of danger thoſe creatures who are not hurtful to them, and to fear and avoid thoſe who are enemies and prey upon them. Neither is Providence leſs ſeen in all creatures (if a man conſiders it) in the preſervation of themſelves and their young ones; ſo that a man muſt needs confeſs, that in them is ſome particle of Divine air, and this their unlearned art and wiſdom is rather to be admired their imitated by us.

Man

Man by his obſervation and experience findes out what things and Creatures are hurtful or helpful to him, other Creatures by an inſtinct of Nature, at the firſt ſight know what things and Creatures are hurtful to them or not: thus we ſee the timerous young Hare feedes ſecurely among Horſes and Cowes, and the oldeſt Hart flyes affrighted from the ſmalleſt dogge. Man can never attain to the knowledge of what things conduce moſt for his corporal preſervation (and therefore the oldeſt and moſt experienced and learned Phyſitian may to morrow find what the day before he was ignorant of; and yet ſhall never attain to the perfection of knowing what is beſt for his own body) which other Creatures (by avoiding thoſe things which are hurtful, and chooſing thoſe things which are moſt beneficial for themſelves) do.

The careful Navigator by the help of ſome Theorems of longitude and latitude, and the uſe of his Card and Compaſſe, ſailes from one Coaſt to another, whereas other Creatures by a propenſe diſpoſition to this or that place, without any obſervations and direction of their ſenſes, fly to other regions where they never were before. So Faulcons, Wildgeeſe, Woodcocks, &c. come from other regions into *England* in the Autumn, and at the Spring forſake us. And Swallowes, Martyns, Hobbyes, &c. which brood with us in the Summer, when the Autumn approaches, leave this Clymate for another, to which they cannot attain by any ſenſe or obſervation of their own. A Gentleman living in *Buckingham*-ſhire had a Beagle ſent him by Sea from the moſt Eaſtern part of *Suffolk*, to *London*, and from thence was conveyed by water into *Buckingham*-ſhire: ſome time after, upon ſome diſtaſte taken by the dogg, he returned home to his old Maſter by land, which was above an hundred miles: But what is moſt admirable is, that *omne genus Balænæ*, as Dolphins, Whales, Porpices (which do not keep in ſhoales or company; and although Fiſhes are *animalia vivipara*, that is, bringing forth their young ones actual living Creatures, and do generate *viviparorum more*) ſhould in that vaſt body of the Ocean (when as by reaſon of the groſſeneſs of the *Medium*, they cannot uſe their ſight at any ſmall diſtance, to perceive when they are neer one another) at the ſeaſons of generation find one another. To proceed herein, were proper for *Plinies* natural Hiſtory, or *Ariſtotles* Hiſtory of living Creatures.

All Creatures are either *animalia nociva*, hurtful Creatures, which prey upon, and devoure other living Creatures; or *innocua*, which feed and eate upon ſuch vegetives as grow and are renewed by the earth or water; or *ſociabilia*, which are only Men who are better or worſe then other living Creatures accidentally. If they ſuffer themſelves to be enſlaved by their depraved paſſions and appetitions, then they become worſe than any hurtful Creature; but if they (by depreſſing their paſſions and ill affections) rule their actions by reaſon, they far tranſcend all other Creatures.

The end of Government is twofold, either to preſerve the governed in peace within themſelves, or to protect them from forraign force or power; in neither of which reſpects is Government requiſite to other Creatures beſides Men: For *animalia nociva* are *ſolivaga*, and therefore no Government is required to keep them in Peace one with another, whereas they do not company one with another. And many other living Creatures who are not by nature hurtful, do not keep in companies, and therefore no Government to preſerve themſelves in peace, is requiſite to them neither. It is

an admirable thing to contemplate how nature has granted to these hurtful and robustious Creatures, armes consentaneous to their force, to protect themselves from outward force and violence of those Creatures who are enemies unto them; as the Lyon his paws and tayle, the Bear his paw, the Fox, Otter, Brock, &c. their Teeth; whereas other Creatures who are by nature denied those armes to defend themselves, what a strange cunning and dexterity has nature given them in the preservation of themselves, from those Creatures who are hurtful to them, and prey upon them.

Those Creatures who live in Community one with another, by desiring the same things, and avoiding the same things, to direct their actions to a common end, that their companies are obnoxious to no seditions; and therefore Government is not necessary to them neither, and of them is Man usually Protector against their ravening enemies.

Men differ from other Creatures, for they are neither *Animalia solivaga*, nor *gregalia*, but *sociabilia*, that is, living in conversation and subordination; and Man is born a living Creature, apted potentially for society, and alike naked and unarmed as one whom nature intended a sociable, peaceful, and politick Creature, and to be governed rather by reason, than force in all his actions; and therefore has endewed him with hands and ingenuity, that having by his ingenuity purchased himself necessaries, he might with his hands cloathe, feed, and defend himself.

In all other Creatures the Laws of Nature (that is, those bounds which God by Nature has set them) are securely obeyed and never transgressed by them, and are only transgressed and violated by Man; and therefore the Laws of Nature are not sufficient for the preservation of mankind in Peace; for by reason of the discords, which arise naturally in Men, for Honor and preheminence. Secondly the apperite of possessing all things. Thirdly the desire to excell other Men in wisdome and policy; and to that end are studious of novelty which causes seditions and civil warrs, that they might be esteemed wiser then the men of this present Age, or their predecessors; by reason of which, present coersive humane Laws are necessary for preserving peace among Men, that the feare of a present punishment may deter men from those things, which because of their Infidelity and Atheisme they otherwise would not feare.

I say, this Humane Power, from whence all Humane Laws are derived, is from the Law of Nature, and if it shall seem strange to any Man that it should be Humane, and yet derived from the Law of Nature; let that Man consider that only Man is a Humane Creature, and does Humane and reasonable actions; and yet it is from the Law of Nature, that only Man is a Humane Creature and can do Humane and reasonable actions. And the Fathers and Husbands power is Humane; yet I think no Man before Mr. *Hobbs* did ever deny, that they were from the Law of Nature. I known in usual speech the supream power of Nations, is called Politick power, which is a mistaking of the cause for the effect, for it is not the power which is politick in the cause, but in the effect and exercise; as take an instance of my meaning, A Father hath divers Children of several dispositions, one disposed to learning, another endewed with bodily strength, and averse from learning; another hath not bodily strength, yet a desire to learning, but by reason of his gross *Minerva*, is not probably qualified to attain to any great progress in it, &c. The Father breeds up his Studious

Son in literature, his Active Son which hath no disposition to learning he makes a Soldier, or Seaman; his Duller Child he binds an Apprentice to some Trade, &c. Though the Fathers power be Natural, yet this exercise of it is Politick; so though Regal Power be from the Law of Nature; yet must the exercise of it be Politick. And therefore Humane Laws, and the exercise or Politick use of Humane Power, cannot (though the Power of all Kings be alike, and from the Law of Nature) be the same in several Nations, but different according to the nature, manners, and dispositions of the Inhabitants. And we see the same King governing in divers places, by divers Laws, accordingly as his Subjects are different in manners, and dispositions. Humane Laws therefore, and the Politick use of Regal Power cannot be as the Laws of Nature are immutable, and the same in all parts of the world, but ought to take their origination from the nature and disposition of the Governed, and are alterable as Mens vices and manners do alter.

The Method observed in the subsequent TREATISE, and the Reason of it.

ALl Science, all Learning, and all Reasoning by the Judgment of Aristotle *is begotten from pre-existing Principles, which being indemonstrable in themselves, do demonstrate them. And since that all Society, or Power and Subjection whatsoever, is created by Divine or Humane Laws; and since it is impossible, there should be* Lex Lata, *where there was not* Jus Legislativum *Superior, and the cause of it: In the First Book we treat of Rights, Laws, Virtues, the Obligation of Laws; and of Pacts, Promises, Vows, Leagues, and Gifts, and from whom Men become obliged to them.*

These things thus premised, the Second Book treats of the Causes of all Humane, Christian, and Legal Society; of Regal and Magistrates Power; of the Three Species of Government, viz. *Monarchy, Aristocracy, and Democracy, of Sedition, and the causes of it: Of the Fathers, Husbands, Masters, and Ecclesiastical Power.*

The Third Book treats of Subjection, Succession, and the Municipal Laws of this Nation.

The Fourth Book treats of Justice, Obedience, Judgment, and Equity.

The Fifth Book treats of the first Planting of Christianity under the British *and* Saxon *Kings; and of the Freedom of the* British *and* English *Churches before the Conquest; and how far the Kings of* England *had exercised their Ecclesiastical Jurisdiction; and how both* British *and* Saxon *Kings had been Nursing-Fathers to the Church of Christ; and how far since the Conquest, the Kings of* England *had exercised their Jurisdiction in the Assertion of their Regal Power, in defence of the Church, until* Henry *the* 8th, *and of the Reformation made by* Hen. 8. Edw. 6. *Queen* Elizabeth, *and of the Ecclesiastical Laws made by them, Queen* Mary, *King* James, *and King* Charls.

A more particular Survey of the *Contents* of the *First Book.*

Chap. I. *THe First Chapter not onely treats of those Rights which must necessarily precede all Humane and Ecclesiastical Laws; but also of those Rights which are created by Humane Laws.*

Chap. II. *Treats of Divine, Humane, Ecclesiastical, and Despotical Laws, and from whence they are derived.*

Chap. III. *Shews what Virtue is, and the causes of all Theological, Moral, Humane, Prudential, and Personal Virtues.*

Chap. IV. *Treats of Particular, Moral Virtues, and*

Chap. V. *Proves them to be commanded by God in the* Old *and* New Testament.

Chap.

Chap. VI. *Demonstrates the Obligation of Divine and Humane Laws upon the Persons and Consciences of Men.*

Chap. VII. *Is of Promises, Vows, Leagues, Pacts, or Contracts and Gifts, and from whence Men become obliged to them; and does demonstrate, that it is impossible that any Law or Legislative Right can arise from the Pacts or Contracts of Men; which concludes the First Book.*

DEFINITIONS.

JUs *is a Right, Due, or Property in God, principally and absolutely; or in some Man, or Men, by some Divine or Humane Law, excluding all others, but him or them from whom it is derived.* *Jus, quid.*

First, *All Right is either* Jus Divinum *or* Naturale, *and this Right is onely, primely, and absolutely in God, and incommunicable to any Creature: Or* The Specifications of it.

Secondly, Jus Humanum *is a Right which Men have from the Law of Nature: Or*

Thirdly, Jus Eccleſiaſticum, *a Right by which the Tribe of* Levi *did under the Old Law, exerciſe their Prieſtly Office and Function; and a Right by which Biſhops, Prieſts, and Deacons, among Chriſtians do execute their Office and Functions: Or*

Fourthly, Jus Legale, *a Right which all Subjects have in their Eſtates and Goods: And this Right is either* Jus Proprietatis *or* Jus Uſufructuarium.

2. *Nature is either that eternal Being, which ever was in God, which Men call* Natura Naturans: *Or that firſt Being, which is in any Creature ſuperior to the Will of any Creature, and created onely by God; and this Nature Men call* Natura Naturaliter; *the depraved ſinful Nature of Man was not originally created by God, but afterward made by Man.* What is Nature.

3. Jus Naturæ Naturantis, *is that Right which muſt neceſſarily precede and create* Lex Naturæ. What is *Jus Naturæ Naturantis.*

4. Jus Naturæ Naturaliter, *is that Right which is created by the Law of Nature; but becauſe this Right is proper to Man onely, we will call this Right a Humane Right: As alſo that Power which is created by the Law of Nature, although it be Natural* Naturaliter, *yet being proper to Man, we call it Humane Power.* What is *Jus Naturæ Naturaliter.*

5. *A Law is the declared Will of him who by right commands, forbids, or permits a thing, together with a penalty annext for not obſervance.* What is a Law.

Lex dicitur à ligando, quia obligat, *ſays* Iſidore *rightly.* Etymologie of *Lex.*

Common

Common Notions or Axioms.

1. *ALL Right which any Man, or company of Men have, is derived either from the Law of Nature, or ſome Divine Poſitive Law declared in the Scriptures, or from ſome Humane Law, or particular Cuſtom, which is always preſumed to be created, or permitted by Humane Laws.*

2. *Humane Laws and Cuſtoms refer to ſome particular place or Countrey, as they are permitted or impoſed by the ſupream Power of that place or Countrey:* viz. *By them who have right to impoſe or permit them.*

3. *The Laws of Nature oblige all Men of all conditions alike, without exception, and are eternal and immutable by Man, and are, and always were connatural with all Men.*

4. *No Being can precede, or be ſuperior to the cauſe of its Being.*

5. *All Cauſes are ſuperior, and precede their Effects.*

THE

THE FIRST BOOK.

CHAP. I.

De Juribus.

1. *Lex Humana lata* has by the second Notion no being, but as it is caused or created by him, who has the *Jus Legislativum*. *Lex Humana lata* therefore cannot by the Fifth Notion create *Jus Legislativum*.

Jus Humanum Legislativum, is not from any Humane Law.

2. If *Jus Humanum Legislativum* were from Divine positive institution, then by the Fifth Notion must the Scriptures precede all Legislative Right; but this is evidently repugnant, not only to the Scriptures themselves, who testifie not only the Right which Fathers and Husband have over their Children, and Kings over their Subjects long before God revealed them by *Moses*; but also this Lawgiving Right is in every place of the world, whether the Scriptures be received or beleeved, or not. It is evident therefore that this Law-giving Right is not created from Gods positive Laws in the Scriptures.

Jus Humanum Legislativum is not created by Divine positive institution.

3. *Jus Humanum Legislativum*, is not by the first Proposition from any Humane Law; by the second Proposition, *Jus Humanum Legislativum* is not from Divine positive Laws. Therefore by the first Notion, *Jus Humanum Legislativum*, is from the Law of Nature.

Jus Humanum Legislativum, is from the Law of nature immediately.

4. By the third Notion the Laws of Nature are, and alwaies were connatural with Men; but the Right which God gave the Priests under the old Law; and to Bishops, Priests, and Deacons, under the new Law, hapned long since, Men were borne in the world, and therefore the Ecclesiastical Right of Bishops and Priests, is not from the Law of Nature.

Jus Ecclesiasticum, is not from the Law of nature.

Nor from any humane law.

5. If Humane Laws could create the Right of Eccleſiaſticks; then by the 2. *Notion*, he who may by right create Humane laws, might alſo create this Eccleſiaſtical right. But this is evidently falſe; for all Kings, Fathers and Husbands have a right of creating Humane laws; but none have the right of creating the Ghoſtly right by which Eccleſiaſticks exerciſe their function or office. This right therefore is not created by any Humane law.

All Eccleſiaſtical right is by divine poſitive inſtitution.

6. By the 4. *Propoſ.* Eccleſiaſtical right is not from the law of Nature. By the 5. *Propoſ.* it is not from any Humane law; therefore by the 1. *Notion*, it is by Divine poſitive law or inſtitution.

Jus primi occupantis, is not from any humane law.

7. By the 2. *Notion*, all Humane laws are made by men; but it is impoſſible by the 4. *Notion*, that men ſhould make laws, where no men are; therefore cannot *Jus primi occupantis* be from any Humane law.

Nor from divine poſitive laws.

8. This right of firſt poſſeſſion not being only due before Gods revelation of himſelf in the Scriptures, but alſo where they are not believed or received; it cannot be by the 4. *Notion*, from Gods divine poſitive laws.

It is from the law of nature.

9. All Right, by the 1. *Notion*, being either from the law of Nature, or ſome Divine poſitive, or Humane law; and this right by the 7. *Propoſ.* not being from any Humane law; and by the 8. *Prop.* not being from Divine poſitive laws, it is by the 1. *Notion* due by the law of Nature.

Annot.

It is proved lib. 3. cap. 11. *that Subjection is natural; and therefore no natural Subject can put himſelf out of the power of his Soveraign: And by conſequence, this right of firſt occupying or finding, by any Subject or Subjects, is the right of the Soveraign in whoſe power ſuch Subject or Subjects are; and ſuch Subjects are the Inſtruments of occupying, or invention, by which this right does accrue to the Supreme Power.*

Jus gentium is from the law of nature.

10. *Jus Gentium*, is a right which every Nation hath to ſend Ambaſſadors to mediate Peace with any other, although in publick hoſtility with them: And this right not being topical, but general, by the 3. *Notion* it is from the Law of Nature.

The right which ſeparated perſons for the worſhip and ſervice of God have to tythes is from the law of nature.

11. The Uſufructuary right, which ſeparated perſons for Gods divine worſhip and ſervice have to Tythes, is not only general, and therefore by the 3. *Notion*, due by the Law of Nature: but alſo being due, and yet by no Humane Law; and being due as well where Gods poſitive Inſtitutions are not believed and received, as where they are; This right, by the 1. *Not.* is due from the Law of Nature; and by conſequence, the detaining of them by the Laity, is a violence upon the Law of Nature, for no Humane Law can diſpence with the Law of Nature.

Jus ſubditorum two-fold, *Proprietatis*, or *Uſufructuarium*, is from humane laws.

12. The right of Subjects is either an Uſufructuary right, or a right of Propriety. *Jus Proprietatis*, is when any Subject, or company of Subjects have by ſome Law a right to any individual thing, excluding all other but him from whom this right is derived, *viz.* the Supreme Power of the place. An Uſufructuary right is, when any man or men have no right of Property to the thing, but only a right to the profits ariſing from it; as a Parſon, Vicar, Judge, and Fellows of Colledges have no Property in the Parſonage or Vicarage-houſe or glebes, Judges place, or Fellowſhips of Colledges. And theſe rights neither being due from any Law of Nature, nor any Divine poſitive Law, are by the 1. *Notion*, from the Temporal or Humane Laws of every Nation.

13. *Jura ſanguinis, nullo jure civili dirimi poſſint.* Nor is Primogeniture only preferred, where Gods revelation of himſelf in the Scriptures are received, but where they are not received: Their right therefore of Primogeniture is from the Law of Nature. The right of Primogeniture is due by the Law of Nature.

14. It is true, that Divine Laws oblige all men alike; and ſo Humane Laws oblige all Subjects alike: But the Right or Property created by Divine or Humane Laws, by the Definition, is in ſome man or men, excluding all others but him or them from whom it is derived. Right or Property therefore being ſuch a mans, excluding all others, it cannot be where it includes all men, either as Men, or Subjects. Thus the Legiſlative right is from the Law of Nature; but every man, as man, hath not this Lawgiving right. So *Jus primi occupantis*, is from the Law of Nature; but every man is not *Primus occupans*. And ſo the right of Primogeniture; but every man is not Firſt-born, *&c.* And ſo Gods divine Laws in the Scriptures oblige all men alike; but yet do not they give to all men alike the right of Preaching the Goſpel, Adminiſtration of Sacraments, *&c.* but only to ſuch ſeparated perſons ſo qualified. And ſo Humane Laws oblige all Subjects alike; but they do not give Right or Property to all alike, but to one man, or more, excluding all other. No Divine or Humane laws give Right or Property to any man *qua homo*, but *qua talis*.

15. That is Right or Property, which is ſuch a mans, or mens, excluding others. That is Community, which is common to one man as much as another; as the Common Road, the Air, or Sea-water, *&c.* How Community, and Right or Property differ.

CHAP. II.

Of Laws.

1. AS in all Arts and Sciences there muſt be ſome Axioms and Principles, which muſt prove thoſe Arts and Sciences; and theſe muſt be firſt granted, and be the reaſon of thoſe Arts and Sciences, and yet no reaſon can be given of them, before any man can deduce any thing from thence; for no mans Reaſon can work upon nothing: So in all juſt and legal actions there muſt always be ſome Law given, which is ſuperior to the Agents reaſon, and the reaſon that ſuch an act is juſt or legal; and where there is no Law, there can neither be Juſtice, nor tranſgreſſion. It is not therefore the will or fancy of any Agent, that makes any action juſt or legal; but the doing of it in conformity to the precept of him who by right commands, or permits it, which makes it juſt and legal. *Et oportet neminem ſapientiorem eſſe legibus.* And if private mens wills, judgments, or reaſons ſhould be the rule of their actions, what one Subject is there of a thouſand, that would be content with that condition wherein the Law has placed him? It is not therefore what I, or another judge fit or deſire, but the directing our actions in common to the rules and precepts of our Superiors, by which we may hope to enjoy peace and unity, and be before God, Angels and Men, truly accounted juſt and virtuous. *Introduction.* *Regula.*

2. All Laws may be divided into Divine, Humane, Eccleſiaſtical, or Deſpotical. Diviſion of Laws.

Divine Laws how manifold.

3. All Divine Laws are twofold, either Natural, engraven in the minds of all Mortal Men, whereby they are to worship one God, and by all just means to preserve peace with Men; or supernatural, *viz.* extraordinarily revealed by God in the Old and New Testament.

From whence all Divine Laws are derived.

4. All Divine Laws are created and derived from that divine and eternal Right, which was inseparably in God, before any such Laws were created by him.

How manifold are Humane Laws.

5. Humane Laws are threefold, *viz.* Secular, Temporal, or Civil, such are the Laws of every Country; or Gamacal, *viz.* the Laws of the Husband; or Paternal, *viz.* the Laws of Parents to their Children.

From whence derived.

6. All Humane Laws are derived from that Right or Power which the Law of Nature creates, in supream Powers, Husbands and Parents.

Why called Humane Laws.

7. They are called Humane Laws, because they are made by Men, who by the Law of Nature have a Right to make or create them.

From whence Ecclesiastical Laws are derived.

8. All Ecclesiastical Laws are derived from that Right or Power which by divine positive institution, our Saviour Christ left to his Church to continue untill his second coming again.

Why so called.

9. Ecclesiastical Laws are so called, because they only relate to the discipline of the Church, and worship and service of God.

Despotical Laws from whence derived.

10. Despotical Laws are derived from the Right or Power, which every Master of a Family hath over his Servants; which Right or Power is created by Secular or Temporal Laws of the place where the Family is.

What must precede every Law.

11. Two things must necessarily precede every Law, or it hath no Obligation, *viz.* the Legislative Right, and the Declaration of it. So that *Jus divinum* is one thing, and *Lex divina* another; and *Jus naturale* is one thing, and *Lex naturæ* another. And so is *Jus Humanum*, and *Lex Humana*; and *Jus Ecclesiasticum*, and *Lex Ecclesiastica*. And he that will confound these things, cannot possibly ever write clearly upon the subject.

What Laws are vindicative.

12. Humane and Despotical Laws are vindicative, or oblige to corporal punishment in this world.

What Laws are distributive.

13. Only Humane, Secular, Temporal, or Civil Laws are distributive, and create property among Men in their Estates.

What Laws are neither distributive, nor vindicative.

14. Neither Divine nor Ecclesiastical Laws are vindicative, but oblige in Conscience only.

* How Men come to be punished Temporally, for not observing Ecclesiastical Laws.

* 15. Although Ecclesiastical Laws (as we shall prove in the next *chap.*) bind in Conscience only, and therefore cannot impose any Corporal mulct or punishment, yet the Secular Laws do; as if a Man be excommunicated, he shall have no advantage or relief in any plea by the Common Law; [a] and by the Common Statute Law whoso is adjudged an Heretick, or Blasphemer, shall be burnt; yet neither Common Law, nor Statute Law take cognisance of either Excommunication, Heresy, or Blasphemy, before the Statute of the 2 *H.* 5. 7. *In curia Christianitatis, (id est Ecclesiæ) in qua servantur leges Christi, cum tamen in foro Regio servantur Leges mundi*, saies *Linwood*, who saies moreover, [b] That the Probate of Wills and Testaments, *de consuetudine Angliæ*, not *de jure communi*, belong to the Court-Christian. But whether *Linwood* saies true or not, *Hen.* 8. began by the Statute Law to encroach upon the Rights of the Church, and by confounding the jurisdictions both of Church and State, making himself head of both, has opened such a gap to let in all Schisme and dissention, that the Common

[a] *Lit. vil. sect.* 201.

[b] *Com. Stat. de circumspecte agatis.*

Common-Lawyers, and Statute-Laws have upon the matter devoured all Church-rites and power; nor are either the Common or Statute-Laws now in much more esteem then the Ecclesiastical. Nor is it less then a Divine judgment upon those men, who have so extravagantly attributed both powers to be in the King, (Between *Supreme Head*, and *Supreme Governor*, I understand no difference; for if the Supreme Governor hath not supreme power or right of command, then necessarily must such a Governor be an Usurper, or unjust Invader) in words only, but indeed in their practice have denied him the exercise of the one, or the other power, and ascribed them both to themselves, and Courts subordinate to the King; That these men (I say) should be themselves, and all the Courts in as little esteem as Ecclesiastical Rites and Constitutions; and the King, God knows upon what account (for no colour of pretence was ever yet so much as reasonably pretended) violently restrained from the exercise of any either Ecclesiastical or Civil power among us.

Here do not I admit of Mr. Hobbs *his division of Civil Laws into Sacred and Secular: (Did ever man before hear of Sacred Civil Laws?)* "Sacred "Laws are those Civil Laws *(he says)* which belong to Religion, that is, "the Ceremonies and Service of God, and are called Ecclesiastical. Secular "Laws are those *(he says)* which are wont to be called Civil, by a general "name.] *For though Ecclesiastical Laws be made by Men, and therefore not Sacred, as he says; yet is the power by which they are made, from Divine positive institution, and therefore cannot have any right or power from Civil or Secular sanctions, which at highest cannot amount to more then Humane.* *Annot.* *Cap.* 14. *art.* 5.

16. A Law differs from Counsel, as my Understanding differs from my Will: my Will is that which imperates all my actions; my Understanding informs my Will, whether the doing or not not doing such an act be good or bad, just or unjust, reasonable or unreasonable. A Law is the declared will of him who by right commands: Counsel, the reason, advice or discourse of them, to whom he who by right commands, refers any thing to be debated, (who are usually called the Council) whether the willing or passing such a thing into a Law, will be probably convenient or inconvenient either to him or his Subjects. How a Law differs from Counsel.

CHAP. III.

Of Virtue.

1. THat Virtue is not always placed in a mean between two extremes, and those extremes to be Vices, according to the opinion of the antient Philosophers; I do subscribe to Mr. *Hobbs, cap.* 3. *art.* 32. *de Cive*; And that from the reason he there gives, *viz.* that Fortitude in a good cause is a virtue, although it be in the extreme. Nor does quantity in giving, be it much, little, or indifferent, make Virtue, but the cause of giving. To these may be added Gratitude and Patience, Justice and Obedience, which are not placed between any extremes. But if I assent to Mr. *Hobbs* *Introduction.* Virtue is not fited always in a mean between two extremes.

Hobbs in this, I cannot leſs diſſent from him, where *cap.*3. he makes Virtues to be the Laws of Nature; and *cap.*2. *art.*1. the Law of Nature to be the Dictate of Right reaſon. For,

What is Virtue.

2. Virtue is the doing or forbearing any action, as it is dictated by Right reaſon, from the Law of a Superior, or from ſome Notion known to an Intellectual creature.

How manifold is Virtue.

3. All Virtue is either Theological, Moral, Humane, Familiſtical, Perſonal, or Prudential.

From whence Theological virtue is derived.

4. Virtue being by the definition, the Dictate of Right reaſon from ſome ſuperior cauſe or notion; Theological virtue is a Dictate of Right reaſon, from ſome revelation of God in the Scriptures, which otherwiſe had been impoſſible for any man by the light of humane nature to have attained to. By Theological virtues I do not mean only thoſe three moſt eminent virtues of Faith, Hope, and Charity, but all thoſe actions of obedience due to them who have overſight of me in the Lord, as a Chriſtian; and to whom I owe my obedience not by any Law of Nature, but as commanded by God in the Scriptures.

What are Moral virtues, and from whence derived.

5. Moral Virtues are thoſe Dictates of Right reaſon which flow from that light of Nature, engraven in the minds of Men, for the conſervation of peace and ſociety among Men, ſo long as they live in this world.

What are Humane virtues, and from whence cauſed.

6. Humane Virtues are thoſe Dictates of Right reaſon, by which Subjects, Wives and Children, conform their actions to the Laws or Precepts of Supreme powers, Husbands and Parents.

What are Familiſtical virtues.

7. Familiſtical Virtues, are thoſe actions of Servants done in conformity to the commands of the Maſters of Families.

What are Perſonal virtues.

8. Perſonal Virtues, are thoſe actions (which are dictated to divers men from principles of innate good nature) of Temperance, Continency, Patience, Liberality and Frugality; whoſe contrary extremes are vices and ſins.

What are Prudential virtues, and from whence derived.

9. Prudential Virtues are not dictated from any Divine or Humane Laws; but from ſome Principles known to the underſtanding (which are more or leſs, as men are more or leſs intelligible) whereby ſome Princes govern more prudently then others, and ſome Maſters of families govern their ſervants more prudently then others. And theſe Virtues have not reference only to the government of Men, but to other actions; as Prudence in managing of an Eſtate, is a Virtue; or in mens governing their actions, ſo that they are eſteemed, and not deſpiſed by other men, are Virtues: yet theſe actions are no where commanded, or forbidden by any Divine or Humane Laws. Theſe Virtues are always placed in Empire, not in Obedience.

The *ratio finalis* of all virtues, and how they differ. Firſt of Theological virtues.

10. God having made Man a rational creature, and endued him with an immortal Soul, capable of eternal happineſs, hath revealed himſelf ſupernaturally in the Scriptures to Men as reaſonable creatures; ſo that they directing their actions conformable to his precepts therein contained, might by faith or believing on him hope for eternal happineſs.

The end of Morality.

11. The end of all Moral Virtue is, that men may preſerve peace and ſociety, ſo long as they live in this world: And God hath made Man a ſociable creature, as well as intellectual and rational; and therefore hath engraven theſe eternal and immutable Laws of Nature in the minds of all mortal men, that by conforming their actions thereunto, they might preſerve

ſerve peace and ſociety with men. And though theſe of themſelves are not ſufficient to pully man up to eternal happineſs; yet let no man hope, that deſpiſing theſe Laws of the great God of Nature, upon a pretended Faith he ſhall ever attain it.

The end of humane virtue.

12. But becauſe the Law of Nature does oftentimes command *in Theſi* only, and Humane Laws *ex Hypotheſi*: as, *Thou ſhalt not ſteal, and ſhalt give every man his due*, is from the Law of Nature; but that this thing is mine, and that thing another mans, is by poſitive Humane laws. So though Moral virtues be always the ſame, yet Humane virtues differ, accordingly as Laws in divers places are different. Thus it is a Moral virtue in Wives and Children, to honor and obey their Husbands and Parents; but as a Humane virtue, the doing of ſuch a thing may be Virtue at one time, and Vice at another, as it is commanded or forbidden by the Husband or Parents. So that Humane virtues in Subjects, Wives and Children, are neceſſary to the conſervation of ſociety, where the laws or principles of ſuch actions are not plainly repugnant to Divine laws.

The end of Familiſtical virtues.

13. The end of all Familiſtical virtue is, that Servants by all juſt and lawful means intend the good of their Maſters, and make no diſſentions or diſcontents in their Families.

The end of Perſonal virtues.

14. God having made man after his own image, as well in body as in ſoul; (for, *He that ſheds mans blood, by man ſhall his blood be ſhed, for in the image of God made he man:*) It is not therefore to be expected that any man ſhould, without ſin againſt God, abuſe the higheſt and nobleſt part of Gods creation. All men therefore, in the firſt place, ought by all juſt and lawful means to do well to themſelves, and not by any exceſs or intemperance to abuſe that body which God hath made in his own image.

The difference between Theological, Moral, Humane, Familiſtical, and Perſonal virtues.

15. Theological virtues relate to the attaining of Eternal happineſs: Moral, Humane, and Familiſtical, to the conſervation of ſociety and peace in their ſeveral places: Perſonal virtues, to the preſervation of that body which God hath entruſted every man with keeping ſo long as he lives. We have ſpoken of the end and difference of Prudential virtues, *Parag. 9.*

Whether juſt and moral actions or virtues are to be enquired into by fortune, as are Prudential?

16. In all prudent and profitable actions, *Prudentis eſt fortunam ſemper in conſilio adhibere:* But that man who directs his juſt and moral actions to Fortune, or the time and tide of mens affections, ſhall ſoon be accounted a Weathercock and Time-ſerver. In all prudent actions or virtues, there is no other obligation or penalty, more then the reward or profit of the action, and loſs for the folly of imprudent actions: But in juſt and moral actions, men muſt conſider their duties, not profit; and are obliged to them, notwithſtanding temporal loſs or trouble.

CHAP.

Chap. IV.

Of Particular Moral Virtues.

Religion is the first and chief of Moral Virtues.

1. Since that the Law of Nature is, That there is one God infinitely good to be worshipped and served, and that all men should in their several stations endeavor by all just and lawful means to preserve Peace and Society in this World; Then is Religion or the Publick Worship and Service of a Deity the first and chief of all Moral Virtues; and so conspicuous was this Virtue in all ages and places to good men, by the Light of Nature onely, that it was always their first care to be in a Society of Men where God (however misplaced in an *Oak*, *Osiris*, *Iris*, *Jupiter*, *Apollo*, &c.) was publickly worshipped and served. And men who were of no Religion, were always stigmatised with the most opprobrious name of Atheists, as the most vile of Men. * *Numa Pompilius* therefore in the first place took care for the institution of a Religion among the *Romans*, and to this end he created a Priest who should daily offer Sacrifice to *Jupiter*. And so zealous were the * *Druides* (in the old age of our Ancestors, before Christianity was planted among us) in their Religion or Publick Forms of Worshipping of God, that none but the Priests and Schollars might learn them; nor would they commit them to Letters, both because they would not have them divulged, least they should grow contemptible by being exposed to the view of the rude and ignorant multitude; as also that their Schollars might the better retain them in their memory. * *Nicias* is the chief Argument of his justification, and hope of belief from the gods in his greatest adversity, says, Πολλὰ μὲν ἐς θεοὺς νομίμως δεδύνημαι, I have worshipped the gods frequently according to Law. And heretofore in the Church of *England*, set Forms of Prayers were not onely ordained, that her sons of her Religion, might meet at publick times to worship and serve God, but the Minister or Priest was obliged every day to offer up the publick worship and service to God, whether there were any present but himself, or not, for all sorts of men in their several vocations and stations: That as the fire upon the Altar among the Jews might never go out, so among us Christians might no day pass, wherein the Publick Service of God was not offered up for all sorts of men.

* *Flaminem assiduum Jovi Sacerdotalem creavit.* Liv. lib. 1.

* Selden: Anal. Angl. lib. 1. c. 4. Cæsar de Bell. Gal. lib. 6. Camb. Brit. p. 12.

* Nicias Orat. Thucid. lib. 7.

2. That Men honor and obey their Superiors, Subjects their Soveraigns, Children their Parents, Servants their Masters.

3. That Men be not Tale-bearers or Back-biters, but avoid evil communication.

4. That Men do not make advantage of anothers weakness to his damage.

Integrity.

5. That Man in all things keep his Integrity; that is, not to answer so to another, as to deceive him by equivocation or mental reservation; if it does not appear, that there is evil intent in the question.

Promise.

6. That Men perform their promise made, although it be to their hinderance.

7. That

7. That Men bear a grateful minde for benefits received, that is, that they do not suffer him from whom they receive a benefit, to be in a worse condition then he was before he conferred it: And if they have not in their power wherewith to satisfie, yet that they bear it so in their mindes, as to be ready to satisfie to their power. Some Creatures who are not endued with Reason, do imitate this Virtue; the *Storks* when their Parents are *viete* and broken with age, do relieve them by feeding and providing for them; wherefore the *Greeks* called the *Stork* ἀντιμισθον, *Beneficiorum retributorem.* See *Grotius* Annotations upon his Preface *De Jure Belli & Pac.* Gratitude.

8. That men do well to their Wives, Children, and others, as by nature and affinity allied unto them.

9. That men be merciful; wherein men ought not so much to observe the *quantum*, as the cause of shewing mercy or pitty.

10. That in revenge men do not respect the evil past, but minde the future good which may happen from the punishment.

11. That they neither by deeds, words, or countenance, use another contumeliously.

12. That they be not high-minded or over-conceited of their birth, person, or parts.

13. That they be lowly minded and modest.

14. Not to accept or respect persons in judgment.

15. Where no Law gives propriety, there ought community to be.

16. Those things which can neither be divided or used in common, that the decision be by lot.

17. That the first-born be preferred, and the Male before the Female.

18. * That no man endeavor to transfer or alien, by Pact or Promise, that right which God by the Law of Nature or Divine Institution hath given him.

19. That Protection be granted to Ambassadors and Mediators of Peace.

20. That no man seek private Revenge for any supposed injury.

21. That Judgment be pronounced without hope of reward, or for applause of men.

22. That where Evidence of Fact does not clearly appear, that they take information from Witnesses.

23. That the Judge be indifferent, not byassed to either party, either by Natural relations, or by any precedent Obligation.

24. These Moral Virtues are commanded by the Moral Law, and are most truly and properly so, as they are revealed and declared to mankinde by God in the holy Scriptures: For the Will of God commanding in the Scriptures (that is, in the Old and New Testament) is in all things by highest right to be obeyed and followed. And because God hath created man with an immortal and eternal Soul, and does not will the death, that is, the eternal death of a sinner; he offers every man grace (who does not refuse it by preferring some other things) to lay hold of those means which he hath revealed in them, for the obtaining of his eternal happiness.

25. But because a man cannot well bear all these Virtues in his minde, in every action which a man intends, if he would know whether it be against the Law of Nature or not: Let him suppose himself in place of him with whom he intends this action, and if he be not willing that this thing should be done to him, let him not do it to another, for upon this short and easie rule, *Whatsoever ye would that men should do unto you, do ye even so unto them, depends all the Law and the Prophets.* Matth. 7. 12. The sum or cause of all Moral Virtues contained in the Second Table.

* That no man endeavor, &c. For that which is any mans by Divine Institution, cannot be alienedneither by his will nor the will of all the men in the world; and therefore cannot Episcopacy or Priesthood after Consecration and Imposition of hands be transferred, because they are by Divine Institution: Yet whatsoever Bishop or Priest shall endeavor for reward or price to alien it, or deny it for safety of his life, may as well be esteemed a prophane person as *Esau* was.

Chap. V.

Moral Virtues are commanded by God in the holy Scripture.

Religion or the worshiping of God in a Publick set form, was instituted by God under the old and new Testament.

1. THE Lord said, Speak unto Aaron and unto his sons, saying, On this wise shall ye bless the children of Israel, saying unto them, The Lord bless thee, and keep thee: The Lord make his face shine upon thee, and be gracious unto thee; The Lord lift up his countenance upon thee, and give thee peace. And they shall put my name upon the children of Israel, and I will bless them, Numb. 6. 22, 23, 24. &c. and on this manner pray ye: our Father which art in Heaven &c. Math. 6. 9. &c. And the Apostle, 2 Tim. exhorts that First of all prayers and supplications (because there can be no Religion without it) be made for all Men, especially for Kings, &c. And that the end of it is Religion, or the uniting or binding Men to a publick and formal worship of God, is plain by the Apostle himself. Where he saies, That men may with one mind and one mouth glorify God. Rom. 6. 15.

That men honor and obey their superiors.

2. I council thee to keep the kings commandment, and that in regard of the oath of God. Eccles. 8. 2. Feare God, Honor the King, 1 Pet. 2. 17. The feare of a King is as the roaring of a Lyon, and whoso provoketh him sins against his own soule. Prov. 20. 2. Honor thy Father and thy Mother, Exod. 20. 12. He that curseth Father or Mother shall surely be put to death, Exod. 21. 15. Servants be obedient to them that are your Masters, Ephes. 6. 5. Let as many servants as are under the yoake, count their masters worthy of all honor.

That men be not Tale bearers.

3. Speak not evil of another, hee that speaketh evil of his brother, and judgeth his brother, speaketh evil of the law, and judgeth the law: Ja. 4. 11. Let no corrupt communication proceed out of your mouth, but that which is good, Ephes. 4. 29. The words of a talebearer are as wounds, and they go down into the innermost parts of the belly. Prov. 18. 8. When David asketh the Lord the question, Who shall abide in his Tabernacle, Psal. 15. 1. He answereth ver. 3. He that backbiteth not with his tongue, nor doth evil to his neighbour, nor taketh up a reproach against his neighbour.

Not to defraud.

4. Oppress not the widdow nor the fatherless, the stranger nor the poor. Zach. 7. 10.

Integrity.

5. Lord who shall dwell in thy Tabernacle? who shall dwell in the holy hill? He that walketh uprightly, and worketh righteousness, and speaketh the truth from his heart, Psal. 15. 1, 2. He that walketh righteously and speaketh uprightly &c. shall dwell on high. Isa. 33. 15, 16.

To keep promise.

6. That which is gone out of thy lips thou shalt keep and performe. Deut. 23. 23.

Gratitude.

7. Withhold not good from whom it is due, when it is in the power of thy hand to do it. Prov. 3. 27. And what can man give back again to God, for all the benefits he hath done for him. Psal. 116. 12.

To do well to themselves.

8. Fathers provoke not your children to wrath, but bring them up in the nurture and admonition of the Lord, Ephes. 6. 4. Husbands love your wives, even as Christ loved the Church, and gave himself for it. Ephes. 5. 25.

9. Whose-

9 *Whosoever shall give you a cup of cold water to drink in my name, because ye belong to Christ; verily I say unto you, he shall not lose his reward:* Mar. 9.41. *Blessed are the merciful, for they shall obtain mercy,* &c. Matth. 5.7. — Mercy.

10 *Thou shalt not avenge, nor bear any grudge against the children of thy people,* Levit. 29.18. — Revenge.

11 *I say unto you, whosoever is angry with his brother without a cause, shall be in danger of judgment; and whosoever shall say unto his brother,* Racha, *shall be in danger of the council; but whosoever shall say unto his brother,* thou fool, *shall be in danger of hell fire,* Matth. 5.19. *He that uttereth a slander is a fool,* Pro. 10.18. *A soft answer turneth away wrath,* Prov. 14.21. — Contumacy.

12 *Every one that is proud in heart is an abomination to the Lord.* Pro. 16.5. *There be six things which the Lord doth hate, yea, seven are an abomination unto him, a proud look,* &c. Pro. 6. 16,17. — Pride.

13 *Blessed are the poor in spirit: for theirs is the kingdom of heaven,* Mat. 5. 3. *With the lowly there is wisdom,* Pro. 11.2. *Thou shalt love thy neighbour as thy self,* Levit. 19. 11. 18. *Whosoever will be great among you, let him be your minister; and whosoever will be chief among you, let him be your servant; even as the Son of man came not to be ministred to, but to minister, and to give his life a ransom for many,* Mat. 20. 26,27,28. — Modesty.

14 *Of a truth I perceive that God is no accepter of persons,* Act. 10. 34. *There is no iniquity with God, nor acception of persons,* Chro. 19. — Not accepting of persons.

15 *Common waies, accession to Maritime places.* St. Auguſt. *lib. 4. quæſt.* 44. *upon the book of Numb. affirms, The Children of* Israel *had just cause of war against the* Edomites, *Numb.* 20. 18. *because* Edom *would not let them passe by the Kings highway.* — What things ought to be common.

16 *And they gave forth their lots, and the lot fell upon* Matthias, *and he was numbred among the Apostles,* Acts. 1.26. *The lot is cast into the lap, but the whole disposing is of the Lord,* Pro. 16. 33. — Decision by Lot.

17 *This is so evident, as wheresoever God did not interpose, in holy writ the first born male was always preferred. And from the authority of the Apostle.* 1 Tim. 2. 23. Adam *was first formed, then* Eve; *wherefore* Adam *had the dominion.* & iura sanguinis nullo jure civili dirimi possint. — Primogeniture.

18 *God pronounced* Esau *a despiser of his birthright,* Gen. 25. 34. *Because he (to save his life) sold his birthright; and Hebr.* 12.16. *a prophane person.* — Not endevour to alien what they claim by divine Law

19 David *had a just cause of war against* Hanun *for his evil entreating of his Embassadours,* 1 Sam. c. 10. — Protection to Embassadors.

20 *Revenge is mine, I will repay it, says the Lord, Rom.* 12. 29. — Revenge.

21 *And thou shalt take no gift: for the gift blindeth the wise, and perverteth the words of the righteous,* Exod. 23. 8. — No reward for judgement.

22 *At the mouth of two witnesses, or three witnesses, shall he that is worthy of death be put to death,* Deut. 17. 6. *But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established,* Matth. 18. 16. — Witnesses.

23 *Thou shalt not wrest judgement, thou shalt not respect persons, neither take a gift,* Deut. 16.19.

24 *It is easier for heaven and earth to pass, then one title of the law to fail,* Luke 16 17. *Thy word is true from the beginning, and every of thy judgements endureth for ever.* Psal. 119. 160. *Yet God may alter his judgements when he pleases, as Gods judgement pronounced against* Nineveh, *Yet within forty dayes* — Indifferent judges. Divine Laws are immutable.

and Nineveh *shall be destroyed*, *Jon.* 3. 4. *was changed by God*, *cap.* 4. 11. *It was accounted* Abrahams *faith*, &c. *James* 2. 23. *That he would have offered up* Isaac, *though by the law of nature* Abraham *should have preserved his son*; *and so God caused the motion of the Sun and Moon upon* Joshua's *prayer*, *Jos.* 10. 12. *And caused the same to go retrograde ten degrees upon the prayer of* Hezekiah *and* Isaiah, 2 *King.* 20. 11. It is true, that nothing less then that power which made a Law, can alter it; the Laws therefore of God whether positive or natural, have an eternal and immutable obligation upon all the men in the world; but whatsoever power may make a Law, that power may alter it: Divine Laws therefore whether positive or natural cannot have any obligation upon God, but he may alter them when he pleases.

Chap. VI.

The Obligation of Divine and Humane Laws upon the Consciences and Persons of Men.

Conscience.

1. Conscience comes of *con* and *scio*, to know together with Reason, or some law. *Conscientia est animi quædam ratio & lex, quâ de rebus factis, & fiendis, admonemur.* Conscience is a certain reason or law of the Mind, whereby we are well or ill advised of our deeds. The lawes therefore of Man may not only be violated by doing contrary to them, but by consenting to them: As he which does contrary to that he thinks, though the doing of the thing be just, yet 'tis unjustly done by him; for, *whatsoever is not of faith, is sin*, Rom. 14. 23.

The obligation of the laws of God.

2. The affirmative precepts of God, they do *semper obligare*, yet they do not oblige *ad semper*: As when he commands us to *pray continually*, it is not to be expected a man should be alwaies in the act of prayer; but so to live, as he does nothing which may indispose him from praying. But Gods negative precepts do not onely always oblige, but oblige *ad semper* too; for there is no time at all wherein it is lawful for a man to *kill*, to *steal*, to *commit adultery*, &c. *Deut.* 5. 17, 18, 19, 20, 21. Negative in all instances.

Ecclesiastical laws oblige in conscience.

3. Ecclesiastical laws do oblige in Conscience. *If thy brother shall neglect to hear thee, tell it to the Church; but if he neglect to hear the Church, let him be to thee as a heathen man or Publican*, Mat. 18. 17. *And the Scribes and Pharisees sit in Moses chair; all therefore whatsoever they bid you, observe and do; but do not after their works; for they say and do not*, Mat. 23. 2, 3. If then by the law of our Saviour, the Jews were to observe and do whatsoever the Scribes and Pharisees commanded them, because they sat in *Moses* seat; sure with as much, or much more reason, ought Christians to observe and do whatsoever the Church, which our Saviour Christ himself hath planted, doth command them.

In conscience onely.

4. *My kingdom is not of this world*, John 18. 36. *God sent not his Son into the world to judge the world, but that by him he might save the world*, John 3. 17. And, *O man, who has made me a Judge or divider among st you?*

If

If then our Saviours kingdom were not of this world; if God sent not his Son to judge the world, and if our Saviour were not a Judge among men; then cannot the Church of Christ have any power from Christ in the kingdoms of the world, nor to judge the world, nor to be a Judge or divider among men.

5. Ecclesiastical laws, according to the usage and custom of *England* relate to Blasphemy, Apostacy from Christianity, Heresies, Schismes, Holy Orders, Admissions, Institution of Clerks, Celebration of Divine Service, Rights of Matrimony, Divorces, general Bastardy, Subtraction and Right of Tythes, Oblations, Obventions, Dilapidations, Excommunication, Reparation of Churches, Probate of Testaments, Administrations and Accounts upon the same, Simony, Incests, Fornications, Adulteries, Solicitations of Chastity, Pensions, Procurations, Appeals in Ecclesiastical cases, Commutation of Penance, which are determined by Ecclesiastical Judges. To what things Ecclesiastical laws have reference.

6. So that there is a mixt Conusance in the Ecclesiastical Judicature, *viz.* of things meerly Spiritual, by which they are impowred to judge and take conusance of, and that by no humane power, but only as they are impowred and sent by our Saviour, and are only his Ministers, *viz.* the taking conusance of Blasphemy, Excommunication, Heresie, Holy Orders, Celebration of Divine Service, &c. And this Ghostly power the Church and Ecclesiastical persons had, before ever Temporal powers received the Gospel of Christ, or were converted to Christianity. And also after it pleased God that Nations and Kingdoms were converted to Christianity, and that Kings did become nursing Fathers, and Queens nursing mothers to Gods Church; then did Kings cherish and defend Gods Church, and endued it with many Priviledges and immunities, which ere while was persecuted by them, or other Powers; but yet could not these Immunities or Priviledges divest them of that Ghostly power which our Saviour by Divine institution gave his Church. It is true, no question but that originally not onely all Bishopricks, and their bounds, and the division of all Parishes, and the Conusance the Church hath of Tythes, of Probate of Wills, of granting of Letters of Administration, and Accounts upon the same, the right of Institution and Induction, and the erection of all Ecclesiastical Courts, &c. were all originally of the Kings foundation and donation; and that to him only, by all divine and humane laws, belongs the care and preservation of all his Subjects, none excepted, in all causes: And therefore not onely all those things which relate to the extern peace and quiet of the Church, although exercised by Ecclesiastical persons, but all those priviledges and immunities which the Church or Churchmen have in a Church planted, which the Primitive Christians and Apostles had not, in the persecution of the Church when planting, are originally Grants of Kings and Supreme Powers, and so Temporal or Secular Laws; but in regard they accidentally have reference to the Church, and are exercised by Ecclesiastical persons, they are not improperly called the Kings Ecclesiastical Laws. And sure either ignorance of this, or faction, hath made men run into contrary extremes: one, That Kings have no right to their Crowns, but *in ordine ad bonum spirituale*, and so cannot be Kings: or, That all power and jurisdiction in all causes is from the King; and so cannot there be any such thing as Christian faith, Religion, or any Ghostly power All things determinable by Ecclesiastical Judges, are not meerly spirituall. *Isa.* 49.23.

power left by our Saviour with his Church, to continue to the end of the world; which every Christian man *de fide* ought to believe, and submit to, before any Temporal Law or Power in the world,

Object. *But because Ecclesiastical Laws have not infallibility affixed to them, if they command any thing repugnant to divine laws, do they then oblige?*

Answer. No, for God ought to be obeyed before Man; nay, if any man in his conscience beleeves that they do repugn Gods law (whereas they do not) in that thing he ought not to submit to them. But let that man have a care that he have not the spirit of pride in him, which he pretends to be Conscience: for an evil Conscience shall never justifie any man for his disobedience; nor shall ever any mans hating of Idols excuse his committing of Sacriledge. And let no man hope that his fancying some errors in a Church, dos give him a liberty of putting himself out of the communion and society of the Church, and setting up of himself in stead of it. No Christian man can hope for salvation, but as he is a Member of Christs Church; nor ought any Christian man to hope, that any Heathen man can be saved in the ordinary way of salvation; *For there is no name under heaven by which a man can be saved, but only by the name of Jesus*: And, *He that obeys not the Church, is to be accounted as a Heathen man*, S. Mat. 18. 17.

The obligation of temporal Laws. 7. Temporal or Secular laws oblige not only in Conscience, but also to temporal punishments. That they inflict temporal punishments, is evident every where in the world, as well for spiritual, as temporal crimes. Thus did *Phineas* turn away Gods wrath from the children of Israel, *Numb.* 25. 11. So did *Joshuah* for *Achans* sacrilege, (that is, stealing or converting to common or prophane uses, what is dedicated and offered up to God) atone and pacify Gods wrath by stoning *Achan* to death. *Jos.* 7. So did *Solomon* put *Shimei* to death by *Davids* will, because he cursed Gods Anointed and his Soveraign, which was a spiritual crime. And God commands the temporal powers not to suffer a Witch to live, and Witch-craft is a spiritual crime. And that temporal laws do oblige aswell in conscience, as inflict corporal pecuniary mulcts, is evident *Rom.* 13. 5. *Wherefore ye must needs be subject not only for wrath, but also for conscience sake.* And the subjection that the Apostle there speaks of, is to temporal powers.

Object. *But God has ordained temporal powers for the preservation of peace; what if they command things which do not conduce to the preservation of peace among men, ought they to be obeyed by them who are in subjection to them, or not?*

Answer. I answer, The question is absurd, for the temporal commands or laws cannot hinder peace among men, but the disobedience to them is that which hinders peace among men. Charity is the chiefest Theological Vertue, and preferred before Faith, or Hope, *Charity beleeveth all things.* 1 *Cor.* 13. And how can I be a Charitable man, and not beleeve that supreme powers (assisted by the best qualified men who make it their whole employment) see and understand more, that such a law is for the good and peace of the governed, then I who am not versed in those things, nor do understand from what reasons and grounds this thing became a law? But who is he that disputes his obedience, and speaks evil of dignities? No man that is a private man, *that judges another, but condemns himself.* *Ro.* 2. 1. And, *speak not evil one of another, he that speaketh evil of his brother, and judgeth his brother, speaketh evil of the law, and judgeth the law; but if thou judge the law, thou art not a doer of the law, but a judge, Jam.* 4. 11.

8. Temporal

When Temporal Laws oblige the Conscience.

8. Temporal Laws oblige the Conscience when they command nothing contrary to the Law of God, nor his Church: when they command any thing contrary to the Law of God, and impose a penalty for not observance, Men must submit to the penalty, but obey God; *For whoso loses his life for my sake, and the gospels, shall find it. St. Mar. 8. 35.*

Ecclesiastical Laws oblige in Conscience before Temporal.

9. Temporal Laws oblige not in Conscience when they command contrary to Ecclesiastical; for spiritual peace is to be preferred before worldly, the good of the soule before that of the body; *First seek the kingdome of heaven and the righteousnes thereof. St. Mat. 6, 33.*

CHAP. VII.

Of Promises, Contracts, &c.

A Promise.

1. A Promise is the giving of a Mans Faith unto another, that he will do or give, or not do or give such a thing, *fidem do me daturum vel præstiturum, aut non*; or *dabo*, or *faciam*, or *non dabo* or *faciam*, is a promise, and to the performance of his promise is every Man obliged by the Law of Nature.

Annot.

But when the Declaration of my will does not evade into Faith given, my will being free continues free, after such declaration, as well as before. As if I say, volo dare vel facere, *I will or intend to do or give such a thing, yet when I will I may will to do such a thing, and therefore if a Man make twenty Wills, yet when he will, he may unwill them all. So if a Man upon things appearing reasonable, does will to give or do any thing, yet if upon discourse or reasoning it shall appear that the giving or doing such a thing will not have such an event as he proposed, he may choose whether he will give or do that thing: nay, if he be convinced that the doing of such an act, will not have such an effect as he proposed, and shall notwithstanding do it, this is the act of a wilful and not a prudent Man.*

A Vow.

2. A Vow is when one plights his Faith to God, that he will give to God, or a Creature such a thing. All Promises and Vowes are either made by words in the future tense, as *dabo*, or *faciam*: or by words in the present tense, as *fidem do*; but then the *habendum, præstandum*, or *faciendum*, is alwaies in the future tense, as *fidem do me daturum vel facturum*.

A Contract or Pact.

3. A Contract or Pact is the conditional act of two or more mutually promising one another to give one another something in exchange, or when two or more mutually promise one another, that if one will do or give such a thing, that then the other will do or give such a thing, upon the doing or giving of one part, the other is by Law obliged to performe his promise: or upon the giving or receiving any part of what is contracted for, both parties are obliged to performe their contract: As if I contract with another to give him ten pounds for a horse, and give him six pence, or more or less (this being an outward expresse sign of the contract) both parties are obliged, the one to pay the residue of the mony, and the other to deliver the horse: or upon the payment, or delivery of the horse by one

one party, the Law obligeth the other to the performance of his promise. So if I promise another to give him five shillings, &c. to do such a thing for my self or for another, if the other accepts of any thing in acknowledgement that he will do that thing, both parties are obliged by the Law; or upon the giving or doing of one party, the Law obligeth the other.

Wherein a bare promise and a Contract differ.

4. Absolute promises receive their obligation from a precedent, or present consideration or condition; as if for a benefit received, or any present consideration, I promise, &c. Contracts from a subsequent, as if I promise to another, that if he will do for, or give me or another, such a thing, that then I will do for him or give him such a thing; this being a conditional promise or contract, upon the performance of the others consideration or conditions, being subsequent to my promise, I am obliged by Law to performe my promise made to him, and therefore *ex nudo pacto non oritur actio*, for I am not obliged by any act of the other to performe any thing. All contracts are made by words of the futuretense, as *si aliquis dederit aut fecerit, dabo aut faciam.*

Wherein a Contract differs from a single obligation.

5. A contract differs from a meere obligation in this; a single obligation is, when one or more for such a sum of Mony, Lands, Houses, &c. had and received from another, acknowledgeth him or themselves liable to such a penalty to the other, if they perform not such a condition as is specified in the obligation. A Contract or Pact is, when both or all parts are obliged to performe.

Annotat.

All Promises, Vows, Contracts, and Obligations, ought to be only of things in possession, and that are mens so, as by an act of their wills they may be anothers, as they are theirs: and therefore where any man hath a meere right to any thing (this being a shadow (another having the substance) or as our Lawyers say, A chose in Action) he cannot by any Contract or otherwise alien his right to another, but he can only release it to him in possession; otherwise the right remains still in him, notwithstanding any Contract, &c. that he would alien it. And I would gladly be satisfied how Mr. Hobbs in the generation of his Civitas, can make meere rights to be transferred and alienes by the Pacts of men; and these natural rights too: This being granted, Mr. Hobbs may by his Contract with another Man, make himself no Man, but a Horse or an Asse, notwithstanding that by nature he is a Man.

What is an Oath.

6. Every Oath is either a calling God to witness, that what a Man testifies is true or false; or else a speech added to a promise, whereby the promiser does renounce Gods mercy, if he performs not what he promises. But if a Man Promises, Vows, Contracts, or swears to do any thing which is unlawful, he ought not to performe it; for it is ill done to promise, &c. but worse to do any thing unlawful.

Fœdus how different from a Pact.

7. A League is, when two or more do mutually give their faith to observe such conditions as are agreed between them, and herein it differs from a Pact or Contract. A Contract or Pact is, when there is a precedent humane Law, obliging the parties contracting to performe all the conditions specified in the contract; A league is, where there is no humane Law obliging but only the Law of Nature. And therefore all stipulations made by Princes one with another, are confederacies or leagues, not Contracts or Pacts, because there is no precedent humane Law, obliging them to performe their leagues.

Donum.

8. A Gift is, what I do give to another, so as it is mine, *do*; and thought

though a gift be alwaies in the present or preterperfect tense, yet the *Habendum* may be in the future; as if I make a lease freehold, or create a State in taile to one, and grant the reversion to another and his heires, here though the deed or gift be in the presenttense, yet the reversion or *Habendum* is in the future. But no Man can give another any thing, but what depends upon his will, and is his so, by some positive humane law, that by his giving he may so make it anothers. For whatsoever is mine by the Law of Nature, cannot be aliened or made anothers by my Will, nor by the Will of all the Men in the world; for it is impossible, natural causes and relations should be dissolved by Mans Will.

A Feoffment.

9. Feoffment is derived of *fœdum* a Fee, *quia est donatio fœdi*, and this is the most ancient and necessary Conveyance which is used by the Common Law (that is that Law which concerns tenures and estates, used only here in *England*) and this deed or conveyance is either of absolute estates of corporeal inheritances, absolutely passed to another by livery and seisin, made according to the intent and purport of such Feoffment (he which conveys such estate of inheritance being called the Feoffor, he to whom such inheritance is conveyed, is called the Feoffee) or of absolute estates of inheritance which are not corporeal, as Advousons, Commons, rents issuing out of lands which do lye in grant, and do not pass by livery and seisin, but by delivery of the deed or feoffment.

Estates-Taile.

10. *Do* (or *dedi*, as our Lawyers say, which implies a warranty) to *A*, and his heirs for ever, makes a Feoffment: *Do* or *Dedi*, to *A*. and the heires of his body lawfully begotten, or to *A*. and the heires male or female of his body lawfully begotten; or to *A*. and the heirs male or female on the body of such a Woman, or to a Woman and the Heirs of her body lawfully begotten, or heirs male or female of her body lawfully begotten by such a man, creates a state taile; and he which creates such an estate is called Donor, he to whom such estate is granted, Donee.

Freehold.

11. *Do* or *Dedi* to such a man or woman for term of either of their lives, or to such a man or woman during the life of another, creates a freehold.

Lease.

12. *Do* or *Dedi*, or *concedo* or *concessi*, to such a man if he shall live so long, an estate for years, or to such a man and his heirs for such a term, reserving, or not reserving such a rent or service, creates a lease; In both the latter he who gives is called Lessor, he who takes, Lessee; and humane Laws oblige as well to gifts as contracts. For natural Laws oblige in conscience only, but men are obliged by mulcts and corporal punishments to contracts and gifts. So that in most proper speaking, In every gift it is the Law which gives the property to another by an act of the Donors will, and the Donor is the instrument by which the Law conveys the property of any gift to another.

No Law or Legislative Right arises from any Pact or Contract.

13. Humane Laws therefore obliging men to the performance of their Pacts, Contracts, and Gifts, it is impossible they should receive their origination and first power from the Pacts and Contracts of Men: For where there is no precedent humane Law obliging, men can neither make Pacts, Contracts, or Gifts, nor have any thing to give and contract for. And to suppose that humane laws must precede and oblige men to their Contracts and Pacts, and that Contracts and Pacts must precede humane laws and give them their power, is most manifestly absurd and contradictory.

THE CONTENTS
of the Second Book.

Chap. I. *Having thus far treated of Rights and Laws, which are the prime and efficient cause of all Humane, Christian, and Legal Society; We in the first Chapter of this Book proceed to declare the Causes of all Society.*

Chap. II. *This Chap. shews the cause and end of Regal power.*

Chap. III. *Declares the attributes of it, and incidently the causes of Magistrates power.*

Chap. IV. *Compares the three species of Government, viz.* Monarchy, Democracy, *and* Aristocracy; *wherein the excellency of Monarchy appears above either of the other, as well by reason and experience, as by the institution of God, and consent of the world.*

Chap. V. *Shews the internal causes disposing men to sedition, as well from the Party governing, as from the Subjects or party governed.*

Chap. VI. *Declares the causes and attributes of the Fathers power. And*

Chap. VII. *The causes and attributes of the Husbands power. In this Chap. is demonstrated, that though the Fathers and Husbands power be from the Law of Nature, yet may the exercise of them be restrained by the Supreme power of any place, without any wrong or prejudice to them; which could not be done without a violence upon the Law of Nature, if the Fathers and Husbands power were an institution of God, and Supreme powers an institution of Man.*

Chap. VIII. *Contains the causes and attributes of Despotical, or the Masters power; wherein is declared, that if it be impossible for any man to make another his Master, then necessarily is it impossible any man should make another his Prince or Soveraign.*

Chap. IX. *Treats of the causes and attributes of Ecclesiastical power.*

DEFINITIONS.

What is Society.

1. *Society,* Aristotle *in* lib. 1. Pol. cap. 5. *truly defines to be made up of many divided parts or persons; so that there must necessarily be* Unum quid quod imperet, alterum quod pareat.

How manifold is the Society of Men.

2. *There are six sorts of Society. First, of Supreme powers and Subjects. Secondly, of Magistrates and those committed to their care or government; and this is most properly called the* Civitas, *especially where the Magistrates and those in their jurisdiction have a priviledged or exempted authority peculiar to them, and not the same with that which is not contained in their jurisdiction. Such are the Societies of our* Civitates, *Boroughs and Corporations in* England, *where the Magistrates jurisdiction is exempt and priviledged from the ordinary jurisdiction of Magistrates, where these priviledges and immunities are not. Thirdly, of Husband and Wife; and this Society the Greeks called* Gamaca. *Fourthly, of Fathers and Children, which is called* Patrica. *Fifthly, of Masters and*

and Servants, which is called Deſpotica. *Beſides theſe, there is a ſixth Society, which is proper only to Chriſtians,* viz. *of Biſhops, Curates, and Congregations committed to their charge.*

3. Poteſtas eſt jus imperiale in aliqua perſona, cujus præceptum continet rationem obedientiæ. What is power.

4. *There are four kinds of Powers,* viz. *Divine, Humane or Natural, Legal and Eccleſiaſtical.* How many kinds of powers are there.

5. *Divine power, or right of Command, is that power which is by higheſt right ſolely and originally in God, and incommunicable to any Creature, from whence all other Powers are mediately or immediately derived.* What is Divine power.

6. *Humane power is a right of Command, created immediately by God, or immediately derived from the Law of Nature.* What is Humane power.

7. *Legal power is a right of Command, which is not immediately derived from any poſitive or natural law of God, but from ſome Humane law.* What is Legal power.

8. *Eccleſiaſtical power is an inſtitution of our Saviour, and left to continue in the Church of Chriſt, until his ſecond coming to Judgment.* What is Eccleſiaſtical power.

9. *Force or Tyranny, is an uſurpation of Command of any Creature, or company of Creatures, not created by any law of God or Man. Nor is it the commanding of one alone, which makes Tyranny: the very* Grecians *could account the* Athenian Thirty *to be Tyrants; and ſo could the* Romans *the* Decemviri *and* Triumviri. *And no queſtion but it was malice and ſpight, which made the* Grecians *call all Kings Tyrants; and both* Romans *and* Grecians *to make all Kings to be Ravenous creatures. And all thoſe Kings who abuſe their power, are by men uſually called Tyrants, not juſtly. I find no ſuch title given to* Saul, Ahab, Ahaz, Nabuchadnezzar, *but Wicked and Idolatrous, often. Nor is a Father or Husband, leſs a Father or Husband, if they abuſe their powers, becauſe they have a right of Command.* What is force or Tyranny.

10. *Dominion or Government is the exerciſe of Command by any Creature or company of Creatures, who have a right, or no right of Command. So that though all Government or Dominion be the exerciſe of Command, yet is not all Government the exerciſe of Power; as the Dominion or Government of Thieves, Robbers, and Pyrates, &c. is the exerciſe of Command, who yet have no right of Command.* What is Dominion or Government.

11. *All Power is Right, but all Right is not Power; as* Jus Proprietatis & Uſufructuarium, *is Right, not Power.* How *Poteſtas* differs from *Jus.*

Common Notion.

All Created Powers are from the Law of Nature, or Divine poſitive Inſtitution, or Humane Laws.

THE SECOND BOOK.

CHAP. I.

Of Society, or the mutual offices of Commanding and Obeying.

To command and to obey, is no humane artifice or invention.

1. IF all Commanding and Obeying had been an Humane artifice or invention, then was there a time when Men lived out of Society, and in a parity or equal condition, without commanding and obeying. But there is no such time recorded in Sacred or Prophane history, wherein Men lived so, or when, or who first invented or introduced these offices of commanding and obeying: Besides, we see that Arts and Sciences are received in one place, and not in another; and in the same place, and by the same men at one time, and neglected at another: But at no time or place did ever men live out of society, or commanding and obeying. All commanding therefore and obeying is no Humane artifice or invention.

To command and to obey, is natural.

2. If then there was never any man born, but was born in subjection; and all subjection being in the predicament of relation, which must suppose something commanding; and if all things which are not artificial or invented, are natural: Then is it as evident, as that *Homo est animal rationale*, that to command, and to obey, is natural. And to this does the highest Philosopher give testimony; *Imperare & parere, non solum ex numero rerum necessariarum sunt, verumetiam ex utilium, & statim ab ortu primo nonnulla inter*

Pol. lib. 1. cap.

inter se distiterint, alia ut parerent imperio, alia ut imperarent. And the highest of Roman Orators and Lawyers, *Cicero*, who says, *Sine imperio neque domus ulla, neque civitas, nec hominum universum genus stare, nec ipse denique mundus potest.* Besides, we see in all seditious men and assertors of Liberty, who will not be subject to rightful Governors, that none of them could ever yet attain to make men any where in a parity of condition; but by a propense natural disposition, when they have cast off the obedience due to others, they fall to command and obey among themselves: But this not having any foundation but from themselves, (Men being naturally ambitious of commanding, and impatient of subjection) it is Gods judgment upon them, that they rarely continue long in peace, but are obnoxious to continual seditions and confusions.

Lib. 1. de legibus.

3. All powers being from God, and Gods ordinance mediately or immediately, *Rom.* 13. and Power being in relation, must refer to something which is subject to it. Power therefore and Subjection are the ordinance of God: But by the antecedent proposition, the offices of commanding and obeying, *viz.* of Power and Subjection, are natural. To command therefore, and to obey, is Gods natural ordinance, or from the Law of Nature.

To command and to obey, is Gods ordinance, and from the law of nature.

If then to command and obey, be no humane artifice or invention, but natural and Gods ordinance, then is it most senseless for men to beg it for a principle, That all men are by nature in a parity and free condition, and that the will of man brought in the Powers and obedience due to them, in use now in the world, against Gods ordinance, and that freedom wherein by nature originally all men were.

Annot.

4. If to command and obey, as Supreme powers and Subjects, had been an humane artifice or invention, then was there a time when men lived out of the offices of commanding and obeying, as Supreme powers and Subjects, and were introduced by men: But there was never any such time recorded in sacred or prophane history, or that they were invented or introduced by men: To command therefore and obey, as Supreme powers and Subjects, is no humane artifice or invention.

To command and obey, as Supreme powers and Subjects, is no humane artifice or invention.

It is the silliest thing in the world for men to dream of a Golden age, in which all things were alike and common to all men, and that men lived promiscuously in a parity or equal condition; and never tell when that time was, or who lived therein: And to say that the Dominion and Subjection now in use, Mans will brought in; and yet never tell who, any where in the world, did ever introduce it. And sure if this commanding and obeying were brought in by the wills of men, against that natural right and law wherein God hath made man, it could not possibly continue at all times and in all places of the world, but that somewhere men would return to their own natural liberty.

Annot.

5. [a] If all things be either artificial or natural, and the offices of commanding and obeying, as Supreme powers and Subjects, be not artificial; then these offices of commanding and obeying, as Supreme powers and Subjects, are natural.

(a) To command and to obey, as Supreme powers and Subjects, is natural.

6. [b] That Supreme power is Gods ordinance, and that Subjects must needs be therefore subject to it, the Apostle says expressly *Rom.* 13. But by the precedent proposition they are natural; They are therefore Gods natural ordinance, or due from the Law of Nature.

(b) To command & obey, as Supreme powers and Subjects, is Gods ordinance, and due from the law of nature.

7. [c] This *Aristotle* in *chap.* 5. *lib.* 1. *Pol.* proves. Besides, these offices not being topical, but universal, no where created by any humane Law, and due

(c) To command & obey, as Husband and Wife, is natural.

as well where Gods revealed ordinance in the Scriptures is not received, as where it is, they are natural, or due by the law of Nature.

To command and obey as Parents and Children, is from the Law of Nature.

8. The mutual offices of commanding and obeying, as Parents and Children, not being from any Humane law, but being due in all places, as well where Gods revelation of himself is received, as where not, are natural, or due from the law of Nature.

How many ways the offices of commanding and obeying are caused from the Law of Nature.

9. God having created Man not only different from other creatures of this orb, as intellectual and rational, but also as sociable, *viz.* living in conversation and subordination, for *extra societatem vivere neminem*; He hath given by the law of Nature to some the power or right of commanding, and others he hath subjected to such powers. But he hath created these powers divers ways, *viz.* either upon supposition of some mutual act of the parties commanding and obeying; or upon supposition of some act of the parties commanding; or without supposition of any act of either the parties commanding or obeying.

First, I say, the Law of Nature creates these offices of commanding and obeying, upon supposition of some act of the parties commanding and obeying. As Matrimony is the mutual act of the Husband and Wife: I *A. B.* take thee *D. E.* to be my wedded wife; and I *D. E.* take thee *A. B.* to be my wedded Husband: by this act of the Husband and Wife, God by the Law of Nature gives the Husband a power or right of command over the Wife, and subjects the Wife to the Husband. Or,

Secondly, upon supposition of some act of the parties commanding: As the Parents power arising from generation, the Parents must be supposed to generate, before they can have a power or right of command. Or,

Thirdly, upon supposition of no act either of the parties commanding or obeying, as in all rightful Hereditary Monarchies, these offices are as much due from the Law of Nature, before any act of the parties commanding and obeying, as after.

All commanding and obeying which God hath ordained, is not from the Law of Nature.

10. Gods Ordinance to Man being either that Law or Ordinance, which he has ordinarily engraven in the hearts of Men; or his gracious goodness extraordinarily revealed in the Scriptures, and Gods revelation of himself by *Moses* and Prophets, by our Saviour, the Apostles and Evangelists, was extraordinarily and supernaturally given to them by Gods especial grace; nor could Men by any natural means attain to the belief of it. All offices therefore of power and subjection to them which are created by Gods will so revealed, are not created by the Law of nature.

All offices of commanding and obeying, are not Gods ordinance immediately.

11. All offices which are created by Divine Law, whether by the Law of Nature, or by divine positive institution, being from higher then humane causes, are indelible, and cannot be aliened, transferred, or communicated by any humane act, for *ejus est nolle, cujus est velle*; and therefore cannot the power and obedience of Parents and Children, of Husband and Wife, of King and Subjects, be aliened, dissolved, communicated, or transferred; but the offices of Masters and Servants, of Magistrates and those subject to them, are alienable, communicable, and transferrable, and sometime are, and sometime are not; they are not therefore from any immediate ordinance of God either positive or natural. But the offices of commanding and obeying as Masters and Servants, and Magistrates and those subject to them,

them, are but temporary, and determinable by the laws of him that made them; therefore not Gods ordinance.

12. Humane laws create Magistrates power two ways: Immediately, as when Supreme powers (which are the fountain from whence all Temporal laws are derived) constitute any Magistrate, giving him jurisdiction over the inhabitants of any place; or when the Laws or Higher powers enable such men to nominate their Magistrate, there the Nominators are the instruments by which the Law does transfer this Magisterial power. How many ways power and subjection happens by humane laws to Magistrates and those subject to them.

13. The mutual offices of power and subjection between Masters and Servants, happen two ways; either created by the contract or pact of the Master and Servant, (and we have before shewed that all pacts and contracts receive their obligation from Humane laws) as the means by which Humane laws do create these offices; or else without any pact or contract of the parties commanding and obeying, as in the cases of Slavery where prisoners are taken in war, or men condemned thereunto for some offence; or of Apprentiship, where children are bound for such a term, by the Laws of their Country, or Parents. And I do grant Mr. *Hobbs*, *Grotius* and *White*, that this power and subjection, *Humana voluntas introduxit*; but not the parties obeying, as they most senslesly feign, but the Supreme powers or the parties commanding: And where they are not so created, all men are originally free. How many ways humane laws create the power and subjection of Masters and Servants.

I do much wonder at those men, who make all Supreme or Regal power to have its origination from the consent and aggregation of many families: For they not only confound the Masters power with the Fathers, which in the nature and cause we have already shewed, and shall more fully hereafter in their proper Chapters shew; but also make the Masters power to be from the Law of God, and Regal power to be a Humane institution: whereas the contrary is true in both. And what it is should move men to imagine, that after Adam's *and* Noah's *posterity dilated themselves into many families, that they should give* Adam *and* Noah *more power then God gave them. I am sure no such thing, or the least probability thereof appears in Scripture; or that after* Adam's *and* Noah's *deaths, their Posterities became free and independent from all Government; which was (no body can tell when) brought in by the Pacts of Men, or by consent and submission of Families to it.* Annot.

14. That power or right of command which God *jure divino* hath as solely and absolutely over all his creatures, as the Creator, first and efficient Cause of them; and therefore by highest right all obedience is chiefly due to them before any creature in all things: Or else power and subjection are caused from the Laws of Nature, or from the Law of God revealed in the Scriptures, or from Humane positive Laws. All Society which is not contained in these causes, is Tyranny in the party commanding; nor is any obligation in Conscience to such Commands, from the party commanded. All power and subjection, from what causes.

Having thus far treated of the Causes of Power and Subjection conjunctly, we shall hereafter in their several Chapters treat of them severally, and more at large. And we insist more largely hereon, in regard these Powers and Subjections are either so confounded in their Causes by other men, or such wild things begged for Principles, that (so far as I understand) no ingenuous man should grant.

CHAP.

Chap. I.

Of Regal and Magistrates power.

Introduction.

1. THere is no question but one of Mans chiefest happinesses in this life, consists in the contemplation of God in his works; to contemplate the Heavens and the Earth, the workmanship of his hands, and the admirable order and motion of them all, being by him so made and created. Nor is God less seen in the generation and birth of Man and other creatures, then in the creation of the Universe. And as admirable is the preservation of every Man, as his generation: For, abstracting from the internal cause,

Virg. Æn. 6. prop. fin.

Spiritus intus alit, totamque infusa per artus
Mens agitat molem.——

How God does renew, and preserve every Man, and every part of Man, by a perpetual motion, *viz.* the *Systole* and *Diastole* of the Blood. If a Man considers his outward preservation, not only from the violence of other creatures who are of much more force then himself, but also from the force and violence of his own kind; (for, were he not restrained, *Homo homini lupus:* And what are the People in general, but a sudden, rash, and furious Beast, carried hither and thither upon every wild fancy, raging to have this thing done, and presently lamenting because it is done?) He must needs confess there is no power under heaven which can restrain the raging of the sea, and the madness of the people. The Psalmist therefore, *Psal.*77. when he calls to mind the works of God, and his wonders of old; *Thou thundrest from heaven, thou shakest the earth, thou dividest the sea*; and at last as the greatest wonder of all, he says, *Thou leadest thy people like sheep, by the hands of Moses and Aaron.* It is not therefore from any pacts and inventions of Man, that he may hope for any security; but by submitting himself to what God hath ordained for his preservation.

As the Athenians did in their sentence on Socrates and the Captains at the Fight at Arginusæ.

Regal power cannot be created by the People.

2. Upon a survey taken in Scripture, how often *Christi Domini* are used, they are found to be thirty three; two of which are spoken of the Patriarchs, one of our Saviour, and all the rest of Kings only. Once of our Saviour, *Luk.*2.26. twice of the Patriarchs, *Psal.*105.15. and 1 *Chro.* 16.22. all the rest to Kings only and expresly. And though others were anointed, yet none but our Saviour, Patriarchs and Kings were the *Lords anointed.* Nor is *Gods anointed* peculiar to them, (not the material anointing, and the receiving and believing Gods revelation of him-self in the Scriptures, is essential to the making of Gods anointed here; but all rightful Kings are so, whether they be materially anointed, or believe Gods revelation of himself in the Scriptures, or not: For not only *Cyrus* was not materially anointed, and an unbeliever, yet Gods anointed; but *Nabuchadnezzar* also, a cruel persecutor and destroyer of Gods people:) But God calls them *Mortal Gods* too, *Psal.*82.6. And is it not strange that our Saviour should say, *No power can be but from above, data desuper*; and that Men should be so impudent as to affirm, that there is no power unless *data de subter?* and that against all sense and reason, as well as faith: For it is im-

*Isa.*45.1.

*Lam.*4.20.

*Joh.*19.11.

impoſſible that any Power ſhould be ſuperior to the cauſe of its being; or that any thing ſhould give that to another, which it ſelf hath not. How then can an imaginary rout of Men give a power of life and death, and of creating property (which not any of them, nor all of them together have) to another?

Regal power not made by Humane laws.

3. Humane Laws being the accidents, or effects of Regal Power, they cannot be ſuperior to give or create a being to the cauſe; Regal Power therefore cannot be made or created by Humane Laws.

The poſſeſſion or exerciſe of Regality, does not create Regal power.

4. That in Regality, as well as in Subjects eſtates, *jus proprietatis & poſſeſſionis* have been divided, and Regal power uſurped, and exerciſed by them, who had no right thereunto, is not only teſtified by infinite Authorities out of prophane Hiſtory, but alſo many times in Sacred Writ, as in the caſes of *Abſolom*, *Adonijah*, *Athaliah*, *&c.* It is true indeed, that there is no viſible power under Heaven, but only Mens Conſciences that can judge between an Uſurper and a rightful Prince; Yet ought men principally to have a care how they offend herein; for God no where denounces a more dreadful ſentence, nor ſhewed a more terrible judgement then upon ſuch Men, *Num.* 16. And if in Regality poſſeſſion alone did create a juſt title, then were *ſumma injuria*, *ſumma juſtitia*; it being (no queſtion) the higheſt injury to invade the higheſt authority or dominion of another.

Rom. 13.

Poſſeſſion, with the Subjects acknowledgment and ſubmiſſion, does not create Regal power.

5. If poſſeſſion conjoyned with the ſubmiſſion and acknowledgement of the Subjects, did create regal power or right of command which Kings have over their Subjects, then were the dominion of Theeves and Pirates where others ſubmit to them, juſt, and *Jeroboams* title good to the kingdom of the Ten Tribes; nor the Children of *Iſrael* Rebels, but true Subjects after they had quietly ſubmitted themſelves to *Jeroboam*. But this is falſe, for God does denounce them Rebels to the houſe of *David* unto this day, 1 *Kings* 12. 19. And *Jeroboam* himſelf a Rebel, after he was quietly poſſeſſed, and acknowledged by the Ten Tribes, 2 *Chron.* 13. 6.

1 *King.* 12. 19.

Annot.

It is a very remarkable thing, that the Subjects of this Nation (although pretending to be Chriſtians) have againſt all rules of Chriſtian Faith, placed all power in Government to be from the people, and their obligation to it, to be from their own ſubmiſſion to it; and have by their often forſwearing themſelves to this and that Government, not only habituated themſelves into a belief that there is no ſuch thing as right or power in Government, but only poſſeſſion; but alſo taken away all Religion and Obligation of an Oath in things lawful and indifferent. God no doubt permitting it, that they who would not ſtand and be protected by his ordinance and inſtitution, ſhould fall into all infidelity and perjury, and never be true to any thing they ſweare to, and ſet up inſtead of it.

The Law of God or Nature does not create Regal power by the ſubmiſſion, or any act of the Subject.

6. If the Law of God or Nature did create Regal Power by the acknowledgement or ſubmiſſion of Men thereunto, or that Subjects were the eſſential inſtruments by which Regal Power was originally created, and yet is continued in the world; then were not Men only free from Regal or Higher Powers before they did ſubmit thereunto, but alſo free to make whom they would their Prince; and ſo by conſequence there can be no ſuch thing as Hereditary Monarchy in the world, which for many Hundred, nay Thouſand years (where God was not pleaſed to reign himſelf immediately over his peculiar people) was in the old time the only Government in the world. For above 3000 years after the Creation, was neither Ariſtocracy,

Democracy, or Elective Monarchy ever heard of in the world; and yet Hereditary Monarchy is in above 19 of 20 parts in the world the only Government. Nor would any Government that ever was, or is in the world, grant this liberty to any one born in their dominion; but upon resisting it, or renouncing it, whether he ever submitted to it or not, proceed against him not as an Enemy, but as a Rebel and Traitor. To suppose therefore that Subjects acknowledgment and submission is previous the essential means by which God does create Regal or Higher Powers, is upon the matter to give the Lye to all the Powers and Governments that are, or ever were in the world.

Regal Power is the Ordinance of God, and created by the Law of Nature.

7. None of these things therefore, but some higher cause must create Regal power; and that Regal Power is the Ordinance of God, the Apostle saies expressly, where he saies, *Rom.* 13, that he which resisteth the Higher or Regal power, resisteth the Ordinance of God: And that this is not Gods Ordinance only to them, who receive and believe his revelation of himself in the Scriptures, is evident by his ordaining of *Hazael, Cyrus, Nabuchadnezer, &c.* and to put all out of question, the Apostle here calls Higher or Regal Power Gods Ordinance, and at that time whenas there was no King in the world which did receive the Scriptures for the revealed word of God. Besides, Kings reign by God, &c. *Pro.* 8. 5. and that Kings reign by God, not only where he is believed as having extraordinarily revealed himself in the Scriptures; *Job* in the state of nature long before the Moral Law was given by *Moses*, saies, *Reges in solio collocat in æternum*, Regal power therefore is Gods Ordinance, and from the Law of Nature.

Job. 3. 6, 7.

Adam had Dominion over all Creatures, and not as Father, Husband, or Master of a Family.

8. Regal power being Gods Ordinance, and created by the Law of Nature, there was never any time wherein Men were borne out of subjection to it (not but that the Laws of Nature are often violated by Men) and that God created *Adam* an universal Monarch or King over all his other Creatures, is clearly said, *Gen.* 1. 27, 28. *And God created man in his own image, in the image of God created he him; male and female created he them. And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it, and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.* And that this supreme power was given to *Adam*, not as Father, Husband, or Master of a Family, is manifest; for he was neither Father, Husband, nor Master of a Family; there being no Man or Woman in the world at that time.

Adam had Dominion over *Eve*, and not as Husband only.

9. The Scripture does not only command Wives to be subject to their Husbands, but the Apostle gives reasons wherefore, *viz. That the man is not of the woman, but the woman of the man. Neither was the man created for the woman, but the woman for the man.* 1. *Cor.* 11, 8, 9. Nor does he prove this subjection to be only due from the end of the womans creation, and her being a part of Man; but from Mans being first created, and to whom God had first given Dominion over all Creatures before the Woman was made. 1 *Tim.* 2, 13.

Adam had Dominion over his Children, and not as Father only.

10. Although God gave to *Adam* only of Dominion over all Creatures, yet was it not intended that he alone should so enjoy that his Dominion, that others of his own kind should be wholly deprived of the use and benefit of them, without which they could not possibly subsist. When therefore that *Cain* and *Abel* were born, although the Dominion of all the

Creatures

Creatures continued still in *Adam*, yet had *Cain* and *Abel* property in the Fruit of the Ground, and of Sheep. But this property could not be given to them by *Adam* as Father; for the Fathers power arising from generation, and the person being only generated, the Fathers power extends no further. The property therefore that *Cain* and *Abel* had in the Fruits of the Ground, and Cattel, was given them by *Adam* as King or Monarch. *Gen.* 4. 3. 4.

11. Not only the Scriptures, and all Writers, many times express different things equivocally by one word; but also the same thing equivocally in different words: As a Chief Governor is often called not only *King*, but *Prince, Duke, Sultan, Pharoah, Ptolomy, Cham, &c. Paterfamilias* signifies the Master of a Family, whether he hath a son or daughter in it, or not. Our Saviour, as the highest attribute of power, begins the Lords prayer with *Our Father*. So the Scriptures by *Patriarch, Prince*, and *King*, understand the same thing. The Patriarch *Abraham* is called a *Prince of God*, or a mighty Prince. A Prince sure he was, that could give battel and overthrow four Kings at once, *Gen.* 26. 16. And the King and Prince *David* is called by S. *Peter* the *Patriarch David*, *Act.* 2. 29. And Patriarchs as well as Kings are called *Christi Domini*. And that the Patriarchs mentioned in *Gen.* 5. were not only men endued with the ordinary power of Parents, but Princes in their generations, is manifest; otherwise it had been a vain thing for the Scripture to have mentioned a Genealogie of the Patriarchs from *Seth* to *Noah*, if every Father had had the same power with them. Besides, *Cain*, who was elder then *Seth*, had a wife and children, yet was none of the Patriarchs; and the reason was, because God for the murder of his brother *Abel* made him a vagabond and fugitive upon the earth. And as this Patriarchal or Regal power was with the Patriarchs before the Flood, so was it hereditary, where God did not interpose: For from *Seth* to *Noah*, only the First-born had it, or are mentioned for Patriarchs in Scripture. God, no doubt, by this great example teaching men, that where he does not interpose, this Patriarchal or Regal power is hereditary, and descends only to the Eldest Son, and Heir General.

The state of Man before the flood, and after *Adams* death, was not Anarchy, but in Society, and under Monarchy Hereditary.

Gen. 23. 6.

Gen. 4. 17.

Gen. 5. 12.

12. If, as *Grotius* affirmeth, the state of Man had been *Jure naturali* in a parity or promiscuous condition immediately after the Flood, and that this *Jus naturale* be immutable by God himself; and that this Dominion which is now in use, the will of Man brought in, and that not the will of the party commanding, but in subjection: It had been a very vain curse in *Noah* (or rather of God by *Noah*) to have cursed *Chanaan*, and made him *a servant of servants to his brethren*; or that God should bless both *Sem* and *Japheth*, and make *Chanaan* a servant to them both. And let a man see the generations of *Sem, Ham* and *Japheth*, where the Grandchildren of *Japheth* by *Javan* divided the Isles of the Gentiles, not in a promiscuous condition, but after their tongue, kindred, and in their nation. And so *Nimrod* the Grandchild of *Ham* by *Chus*, became *a mighty Hunter in the earth, &c.* And the beginning of his Kingdom was *Babel, Erech, Acad*, and *Calneth* in the land of *Sinar*. (There is great division among Writers about *Nimrod*, whether he were the same with *Belus* and *Ninus*, or not.) And as the posterity of *Japheth* did not inhabit the earth in a parity and equal condition, so did not the posterity of *Ham*, but in their kindreds, tongues, countries and nations. And so did the posterity of *Sem*, *v.* 31. And *Gen.* 11. gives the genealogie of *Sem* to *Abram*, which came to pass in less then three hundred years after

The state of Man immediatly after the flood, was not Anarchy, but Society, by the testimony of Scripture.

Gen. 10. 5.

Verse 20.

the Flood. And in *Abrahams* time, *Pharaoh* ruled in *Egypt*, *cap.*12. and *Amraphel* was King of *Sinar*, *Arioch* King of *Elazar*, *Chodorlaomer* King of *Elam*, and *Thidal* King of the Nations, and *Bera* King of *Sodom*, *Birsa* King of *Gomorrha*, *Sinab* King of *Adma*, *Semeber* King of *Seboiim*, and the King of *Bela*.

Gen. 14. 1, 2, 3.

Annot.

There is no reason that I understand, why men should affirm Nimrod *to be the first Monarch after the Flood, from* Gen. 10. 8. He began to be a mighty one upon the earth; and that the beginning of his kingdom was Babel, Erech, Accad and Calneth. *Which proves it no more, then if a man should say, That* David *was a mighty one upon the earth, and the beginning of his kingdom was* Judah *and* Jerusalem; *that therefore there was never any King before him.*

The state of Man most antiently, was never Anarchy, but Monarchy, by the authority of the most antient of Vulgar Historicks.

13. We begin with *Diodorus Siculus*, who after that in the *first Part* of his *first Book* of the *Antiquity of things*, having discourſed of the Creation of the World and Man, and given a conjectural opinion of the state of Man before they had language, houſes, or art enough to clothe themſelves; and having in the next *Chap.* diſcourſed of the fabulous Egyptian Gods; and in the 3. of the ſite of *Egypt*, and wonders of *Nile*; and in the 4. of the cauſes of the inundation of it; in the *firſt Chap.* of the *ſecond Part* he deſcends to his Hiſtory, and gives a narrative of the original Government of the *Egyptians* under the Gods, Heroes, and Elective Kings for 18000. years together; and after the Gods reigned *Menas*, and that his progeny in fifty two Kings, reigned 1400. years, and did nothing memorable: And then *Buſiris* and eight of his poſterity reigned, the laſt of which was called alſo *Buſiris*, who built the great City called of the Egyptians *The City of the Sun*, and of the Grecians, *Thebes*; not only the moſt ſtately in Buildings, and adorned with all the Rarities of Nature, of all the Cities of *Egypt*, but of the whole world. After him was *Oſymandrus*, and the eighth of his progeny from him, *Uchoreus*, who built the City *Memphis*: And the twelfth of his offſpring after him was *Myris*; and *Seſoſtres* the ſeventh of his linage was King, *&c.* In the *firſt Chap.* of the *ſecond Book* he treats of *Ninus* as the firſt King of the *Aſſyrians*, and of *Aricus* King of the *Arabians*, contemporary with him; and of *Barzanes* King of the *Armenians*, and of *Farnus* King of the *Medians*; and in *Chap.* 2. of *Zoroaſter* King of the *Bactrians*, *&c.*

In the 3. *Book*, treating of the *Ethiopians* beyond *Lybia*, he ſpeaks of the ſtrange manner of the death of the Ethiopian Kings, until that *Ergamenis* King of the *Ethiopians*, in the time of *Ptolomy* the Second, addicted to Philoſophy and the Greek learning, firſt deſpiſed that manner of dying, which was this: The Prieſts which offered ſacrifice in *Meroe* (and theſe were of greateſt authority) when it ſeemed good to them, would tell the King that he muſt die, for ſo the Oracle of the Gods commanded, and that it was not meet that the will of the Gods ſhould be contemned for the will of a mortal man; and they add other reaſons, by which from an old obſerved cuſtom they perſwade the King to a voluntary death; and all the antient Kings obeyed the Prieſts of their own accord, not compelled by arms or force, but overcome by ſuperſtition. In *lib.*3. *cap.*4. he makes four kinds of *Libyans* to inhabit the midland coaſts about *Cyrene* and *Cirtes*; whereof they who dwell to the South, are called *Naſamones*; others ſited at the Weſt, *Anochita*; others are called *Marmaridæ*, which inhabit between

Egypt

Egypt and *Cyrene*, and part of the Sea-coast; the fourth kind excelling in multitude of men, are called *Maiæ*. The two latter obey Kings; the third are under no Kings, but always intent upon robbery, they know no justice; yet a little after he says, they every year swore the people subject to them, to obey their Prince. He speaks not of the Government of the fourth, but of the *Amazons* which in old time governed *Libya*.

Let us see the most ancient Government of Nations out of other Authors, *Scaliger* out of *Africanus* and *Eusebius*, in the year of the *Julian* period 2625. which was in the yeare of the world 1750. makes *Egialus* King of the *Sicyonians* (not an hundred years after the Flood) who reigned 52 years, after him *Europs* 45 years, after him *Telchin* 20 years, after him *Apis* 25 years, after him *Thelxion* 52 years, after him *Ægyrus* 34 years, after him *Thurimachus* 45 years, &c.

From *Egialus* came the *Egialian* Region, which was after called *Apia*.

Aventinus makes *Tuisco* the son of *Noah*, who sent by his Father 131 years after the flood, came into *Europe* with 20 Captains; and reigned as King of the *Germans* 176 years; and that *Ingævon*, *Germanicè Ingaab*, as some say, others *Inwohner* the brother of *Mannus*, reigned after him 45 years. After him *Istævon* the son of *Ingævon*, (whose wife *Freia*, the *Venus* of the *Germans*, gave the name *Freytag* or *Friday*) reigned 50 years. After him succeeded *Hermion* or *Horman*, the son of *Istævon*, who reigned 63 years. To him succeeded *Marsus* the son of *Hermion*, who reigned 46 years, *&c.*

Inachus in the year of the world 2094. was King of the *Argives*, who reigned 50 years. *Phorone* his son succeeded in his stead, who reigned 60 years. *Apis* the grandchild of *Phorone* succeeded, and reigned 35 years. *Argus*, *Apis* his son succeeded his father, and reigned 70 years. *Criasus* his son succeeded him, and reigned 54 years, *&c.* Nay, the very *Athenians*, beginning at *Cecrops*, for 867 years were governed by hereditary Monarchs, before there were any footsteps of the Democracy or *Archon*. Nor can any man shew (unless where God was pleased peculiarly to reign; or in the *Lacedemonian* Duarchy, who were governed by two Kings descended from *Eurysthenes* and his brother *Proclis*, who ruled in *Lacedemon* from about the year of the world 2848. until both lines became extinct almost together, about the year of the world 3730.) for above 3000 years after the Creation any other Government but Monarchy Hereditary, nor any of them made from any Pacts or Contracts of Men.

What therefore men feign to be originally in the People, was truly in Kings; and *Justin* says truly, *Principio Rerum, Gentium, Nationumque, imperium penes Reges erat.* It was then a Golden Age, (not when Men lived in a promiscuous Herd or Rout, as these Men, and Poets feign; but) when Men content with their Government of Kings, enjoyed peace and plenty in security: And it is Mens wrangling about they know not what, and not content with Regal Government, that hath made such an Iron Age in the world. If a man looks into *Persia*, *India*, *Ethiopia*, and other parts of the world, where Subjects content with those Governors which God hath given them, continue in obedience thereunto, he shall find them not only live securely, but abound in all plenty and riches, and yet may be said to enjoy a Golden Age; and contract the Iron Age to those wrangling *Europeans*, who not content with Gods Ordinance, make to themselves an Iron Age, and without end miserable, by being always obnoxious to Confusions and Civil wars.

It

Annot. 1. It is neither an Article of Faith, nor can there be one instance given out of sacred or prophane History, that ever Supreme or Regal Power was ever made from the Pacts or Contracts of Men, or consent of Families. I do not therefore understand what should move Men against the constant practice of the world in all ages, to require this for a principle, which being vaine and superstitious, all that can be deduced from thence cannot be better or amount higher.

Annot. 2. *Ob.* But God and Nature never made the same thing of different species, and if all power in Government be from God, how then came Government to be of different species, *viz.* Monarchy, Aristocracy, & Democracy? I answer that God hath made Man upright, but he hath sought out many inventions: Therefore let Aristocracies, & Democracies, answer for themselves; anciently there was no Government in the world but Monarchy, nor does God ever command obedience to others; and the very *Athenians* for above 800 years could find a Government under Kings hereditarily, before any footsteps of Aristocracy or Democracy was ever heard of in the world; nor did they ever transgress the bounds of *Europe*, unless in the *Carthaginian* State, and when the *Magi* usurped in *Persia*. It was Pride in the *Romans* and *Grecians*, who not only esteemed all the world barbarous besides themselves; and all Kings to be of the kinde of ravenous beasts, but were the first inventers of these Aristocracies, and Democracies, and made all Power in Government to be Artificial and Political (not only in the exercise which is true, but also) in the cause. This *Jus Politicum* was of a more large extent with the *Grecians*, then the *Jus Civile* was with the *Romans*: For the *Grecians* esteemed that to be *Jus Politicum*, which is common to all Men, conjoyned with any society; the *Romans* called that *Jus Civile*, which is proper to any City. So to buy and sell, was by the *Grecians* called Politick; the *Romans* called not those things Civil unless to sell by such a measure and at such a time; the *Romans* called the Cloaks and other habits of vestments, used by themselves and other people, civil. But let any Man judge whether these Men, Mr. *Hobbs*, *White*, and *Grotius*, being Christians, and two of them very learned Men, do reasonably, not only to reject all precepts and examples of Sacred writ, and all Testimonies of the consent of the present World, and Testimonies of all most antient Histories, from the examples of those most unreasonable Men; besides, the case between them, is as unlike as can bē: For though they agree that this *Jus Politicum*, or *Civile*, is so as well in the cause, as exercise, and all power to be originally with the people; yet by the people did neither *Romans* nor *Grecians*, understand a company of Men in a rout or promiscuous parity, but they who were *Civitate donati*: nor did ever the People of *Athens* or *Rome* acquire their Dominion from the people subject to them, by *do* or *dedi*, and not *dabo* or *faciam*, as these men feign all power to be originally deduced, but by rapine & extorting it from their rightful Kings in whom it undubitably was.

Annot 3. If it be questioned, how originally this power came into the world if not by the Pacts of Men, or consent of Families? I answer, *Rem teneo, modum nescio*; for the manner of it, how it came originally, I am not bound to give an account, where the Scriptures and most antient Historians do not confirm it; it is enough, that I having proved it to be natural and Gods Ordinance, it was never otherwise, especially having the practice of the present world, and the Records of all prophane and sacred History.

14. It

14. It is true indeed, that the Humane Laws, and the exercise of Regal Power, is Politick, Voluntary, and Artificial; but that these Laws are received and exercised in those places where they ought to be, which makes Kingdoms, is expresly said by the Prophet *Dan. cap.* 4. in three places, The most Highest ruleth in the kingdoms of men, and giveth it to whom it pleaseth him, *ver.* 7. And it was *Nebuchad-nezzars* punishment for his pride, that he should have his dwelling with the beasts of the field, untill he knew that the most Highest ruleth in the kingdoms of Men, and giveth it to whomsoever he will, *ver.* 25, and 32. So that it is evident, not only Kings, but Kingdoms, not only their δικη, bnt their αρχη, their Right, but also Government, is from God immediately; and that this is a Declaration of the Law of Nature, not only long before God, by the Prophet *Daniel* speaks this, were Kingdoms upon the earth; but also no Kingdom, or King, which at the time that this was spoken, that did receive or believe Gods Revelation of himself in the Scriptures. Kingdoms therefore, or the exercise of Regal Power, is Gods Ordinance as well where the Scriptures are received, as not, and due by the Law of Nature; and by consequence, the obstinate resistance of Kings in their Government, by their subjects is a violence upon the Law of Nature.

Not only Kings, but Kingdoms have their being from God and by the Law of Nature.

15. Sir *Francis Bacon* in his life of *Henry* 7. relates that *Perkin Warbeck* by the often affirming himself to be *Richard* Duke of *York*, second son of *Ed.* 4. did at last believe himself to be so indeed. The violent and frequent usurpations of usurpers in this Island, and some other Northern and European Region, hath invested such a habit in Men, that (renouncing reason, as well as all faith and belief of God in the Scriptures) they with much confidence affirm, nothing but possession, or possession and submission of Subjects, to be requisite with Kings. Both which do no more make a rightful King then a Mans Deseisin, Abetting, or Intruding into the signiory of another, and the Tenants attorning to him, does make him rightful Lord of the Mannor. But neither humane Laws, nor Man, nor any thing under Heaven, can endue any Creature with a power over anothers life and fortune, who is of the same kind with himself, and without which there can be no supreme power, and by consequence, no society among Men. There are but four waies by which Regality can happen.

How many waies Regality comes to pass.

First, When it is immediately and expresly given by God, as it was to *Saul*, *David*, *Solomon*, *Hazael*, *Cyrus*, *&c.*

Or Secondly, derived from him, who had Regality truly vested in him; but this derivation must not be from the Election, Adoption, or the will of him who was invested with the Regal Power, which at highest cannot amount higher then a humane Law, which by the 3 *para.* of this *chap.* cannot create Regal Power. It must therefore be derived by *Primogeniture*, which is derived from a higher cause then humane Laws, for *jura sanguinis nullo jure civili dirimi possint.*

Or Thirdly by *Lot*, which we have shewed to be by the Law of Nature.

Or Lastly, *Jure Primi Occupantis* (if its Occupant be capable thereof) for Man being a sociable creature by Nature, and society according to *Aristotle*, being contained in many divided parts, therefore in the society of Men there must be *unum quid*, *quod imperet*; *alterum quod pareat.* But whether Aristocracy and Democracy be *unum quid*, that

Lib. 1. *cap.* 3. *Pol.*

that may *jure imperare*, to me is a queſtion, neither of them being any Inſtitution of God, or from the Law of Nature, but brought in by unjuſt uſurpation and violence, and againſt the univerſal conſent and practice of the world for above Three thouſand years. I do exclude Conqueſt to be any cauſe of Regal power, where God does not give it: For either this Conqueſt muſt be made by power, or force: If it be made by power, or one who is Gods Sword-bearer, no new power ariſeth from thence, but only a dilatation of the exerciſe of the old, which was formerly in him: But if it be done by Sword-takers, then is it no other then unjuſt uſurpation and robbery. The World being large, and the Men in it alwaies ambitious, I will not undertake to anſwer for the matters of fact which Men have done in all Ages; nor do I doubt but that oftentimes the alterations and converſions of Government have happened from the will of God.

Object. But it is evident by the Prophet *Daniel*, *c.* 4. 23. 25. that *God ruleth in the kingdoms of men, and giveth them to whomſoever he pleaſeth*: And if that he were pleaſed to make *Saul*, *David*, *Solomon*, and *Jeroboam*, who reigned over his peculiar people, and *Hazael*, *Cyrus*, *&c.* who knew not God, Kings, and yet neither by Lot, Primogeniture from a rightful King, or by right of Firſt poſſeſſion; then for ought is known, theſe alterations which have otherwiſe happened, and do come to paſs in the world, may be from the will and gift of God.

Sol. I anſwer, If it may be Gods will that theſe alterations and confuſions happen in the world, it may not be Gods will; *& affirmanti incumbit probatio*. Let them therefore, or they that make theſe alterations and confuſions, prove that Gods will, and not their own perverſe will, was the firſt cauſe of them. It is true, and I grant that God does oftentimes for the puniſhment of a Nation, convert the ſucceſſion of their Kings into another line, (yet did he never ſo far chaſtiſe any Nation, as to ſubject it to an Ariſtocracy or Democracy.) So it is neceſſary, offences come; yet ſhall that never excuſe them by whom they come. And ſo it many times happens, that men cannot avoid Gods judgments, and die; it is no conſequence therefore, that men ſhould run themſelves into them, or kill themſelves. It may be it is Gods will that my Father ſhould die, or that he will deſtroy my Country and Laws, &c. It does not therefore follow, that a man may kill his Father, deſtroy his Country, or endeavor to ſubvert the Laws thereof. Men are not alwaies obliged to conform their wills to Gods will, but to do what he wills and commands them. I am obliged to pray for my Parents and Country, when it is Gods will they ſhould be deſtroyed.

1 *King.* 11. 13. It was Gods will, that *Jeroboam*, for *Solomons* ſin, ſhould be King of ten Tribes of *Iſrael*; yet becauſe the Tribes did will it, and not upon Gods
1 *King.* 12. 19. command, he pronounced them eternal Rebels, and *Jeroboam* a Rebel, becauſe he took it upon thoſe terms, 2 *Chron.* 13. 6. Nor do we find that
Compare theſe times with theſe, and ſee the event ever *Iſrael* joyed good day after: For the policy of *Jeroboam*, to continue his dominion over them, muſt be preferred before Gods worſhip and ſervice; in order thereunto, *Jeroboam* muſt take counſel and make Calves, which he ſays brought the Children of *Iſrael* out of *Egypt*; any Prieſts were good enough to ſacrifice to them, no matter whether they were Prieſts,
1 *King.* 12. 32, 33. or of the Tribe of *Levi*, the loweſt of the people would ſerve the turn; yea forſooth, *Jeroboam* himſelf could hold forth to the people, and burn incenſe

incenſe, which before was peculiar to the Prieſts. But it is a ſtrange thing, that this invented policie of *Jeroboams* for the keeping of the ten Tribes in their obedience to him, ſhould be the cauſe of ſo wonderful a Captivity, that to this day it is unknown what became of them and their poſterity. 2 *King.* 17. 21, 22, 23.

16. *Parum eſt jus, niſi ſunt qui poſſunt jura gerere:* And men have always by woful experience found, that all Tyranny of a rightful and known Prince, is not to be compared with the miſeries and calamities, where the Prince is not known, or rejected, but every popular and ambitious Man arrogates and uſurps to himſelf what ſhould be juſtly aſcribed to the lawful Prince. Nor does the calamities of miſerable men in ſuch a condition end ſo; but God no where ſhewed ſo great a judgment, as upon thoſe men, (*viz. Corah, Dathan,* and *Abiram*) who rejected their rightful and known Prince, *Num.* 16. Nor does he ever denounce a more dreadful judgment, then upon thoſe men who reſiſt Higher powers, *Rom.* 13. How great then will his judgment be upon them who reject them? The miſeries of men, when the Supreme power is rejected or unknown.

17. He is a natural Prince of right, or by the Law of Nature, who truly preſcribes from ſuch Anceſtors, that no mortal creature can make any juſt exception, or ſuperior claim. And ſo great a Lover of Men, and Truth, is God, that ſcarce in all the world was it not known in any Nation, who was the rightful Prince thereof, when his Subjects did reject him. Who is a Natural Prince *de jure.*

18. It is true, that there is no viſible power under Heaven, but only mens Conſciences that can direct them, where Titles of Princes come in queſtion: But where diverſity of Titles are alleadged, that which is truly and indubitably moſt antient, is the beſt; for it is a true rule in all deſcents whatſoever, that, *Dormit aliquando, nunquam moritur jus:* But this muſt be *jus apparens*; for, *De non apparentibus, & de non exiſtentibus, eadem eſt ratio.* Whether the Title of the Heir general, or Heir male be better, we ſhall treat more at large in *Cap.* of *Succeſſion.* Where there are diverſities of titles, which is to be preferred.

19. *Jus* is *duplex, Proprietatis, & Poſſeſſionis.* And that this Right is diviſible as well in Regality, as private mens Eſtates, is demonſtrated by *para.* 4. of this *Chap.* And if it be true, as it is, that no Being can be ſuperior or better then the Cauſe of its being; then will it neceſſarily follow, that all Kings who inherit from Uſurpers, cannot have a better title then that which the Uſurpers had, ſo long as a ſuperior or better claim can be made by another. Nor do I fear to affirm, *Hen.* 4. *Hen.* 5. and *Hen.* 6. were natural Kings of *England*, and did inherit the Crown of *England de facto*, but not *de jure.* Who is a Natural King *de facto*, and not *de jure.*

20. Although nothing which is naught in the beginning, can be bettered by the continuance of time; yet may Uſurpation, although naught in the beginning, be bettered in time, *viz.* if the Uſurpation be of that continuance, that it outlives all claim that can be juſtly made by another; for, Poſſeſſion is title ſufficient againſt all men, who have no *jus ad rem.* Hence it was, I conceive, that *Athaliah* deſired to cut off all the Royal ſeed of the houſe of *Judah*, 2 *Chron.* 23. And that all Uſurpers do not think themſelves ſafe in their uſurpations, unleſs they ſecure themſelves by attempting greater, *viz.* in deſtroying all the Progeny of thoſe men, who can make a better and more ſuperior claim then they have. Where therefore Democracies and Ariſtocracies, (if ſuch many-headed beaſts, by the Law of God or Nature, be ſufficiently qualified to be capable of this power) and Elective Monarchies have been of that continuance, that no ſuperior claim can be made juſtly by another; let them continue their How Uſurpation may be bettered.

possessions still, for all me: Yet would I not for any good in the world venture my life in any of them, or judge any man to death in any of them, unless it could be made appear that God, or the Law of Nature did ever institute any such things, or that any where in the world they were not usurped, or introduced by them who had no right to do it. But however, it is a most unreasonable thing, that their actions of Adoption and Election should be taken for precedents in rightful Hereditary Monarchies, which cannot admit them without a total dissolution, and do justly attribute their Governments to a higher then humane cause.

Wherein the decision is to be by Lot.

21. Where in Hereditary Monarchies the whole Line is extinguished, there the decision is to be by Lot; for, *The lot is cast into the lap, but the whole disposition of it is of the Lord, Pro.* 16. 33. But if any one gets the possession before such disposition, his Title by the antecedent proposition is good enough; besides we have demonstrated by *para. cap.*1. *lib.*1. that *Jus primi occupantis* is good by the Law of Nature.

How blessed and happy men are, where Supreme powers and Laws are certain.

22. If it be *Miseria servitus, ubi Jus est vagum aut incognitum*; a miserable servitude, where the Law (our Lawyers by *Jus* understand Law) is wandring or unknown: Then by the Rule of contraries, it is a happy Freedom, where the Law is certain and known, to which a man may safely and securely direct his actions. If it be a miserable slavery, where the Law is wandring and unknown; how much more miserable a slavery is it, where the Supreme Power is wandring and unknown? What confusions, murders, rapine and spoil of all things sacred and civil, must men necessarily fall under? The woful and miserable condition of this Nation since our late Distractions, hath sufficiently manifested the consequence of it. If then such a condition be so miserable, how happy then is that Nation, where by Gods mercy men are certain who is their Prince, and to whom they may securely pay their obedience, and assuredly expect protection in their lives and estates? If there be nothing more servile and base, then to be insulted and tyrannized over by them, who by no right command over us; how ingenuous and virtuous is it to be subject, where by all Divine and Humane laws we owe our obedience? For out of the offices of commanding and obeying, did never any man live; and where men will not be subject to them who may by right command over them, they shall be slaves either to their own ambition, or to others, who by no right command over them. And if it be most woful and horrible by resisting Higher Powers to incur damnation; (Note, the Apostle does not say, You must needs be subject to Governments, and whoso resists Government shall receive to himself damnation; for the Empire of Thieves, Robbers and Usurpers, is Government; but to Higher Powers who have a right of command from God:) to what a condition then have men brought themselves, where either they are uncertain of the Supreme Power, and so are either uncertain whether in their actions they incur this dreadful sentence; or else where they are certain where the Supreme Power is, and yet dare not for fear of their lives actively submit to it. Who is the rightful *English Soveraign*, and to whom all *Englishmen* by all Laws of God and Man owe their obedience, is so evident, that I never heard any man deny or dispute it.

Rom. 13.

The end for which Regality was ordained by God.

23. The *ratio finalis*, or the end for which God hath ordained Kings, is for the protection of them whom God hath committed to their charge and government; not only by all just and due means to protect them from the

the outward violence and oppression of their outward Enemies, but also in peace inwardly, and by all means to suppress all faction and sedition of ambitious men, who would disturb it. *He chose David his servant, and took him from the sheepfolds, as he was following the ewes great with young; he took him that he might feed Jacob his people, and Israel his inheritance: So he fed them with a faithful and true heart, and ruled them with all his power.* And that *Kings may be nursing fathers, and Queens nursing mothers to Gods Church.* And consonant to these revelations of God by these noble Prophets, is the declaration of the Saintly King *Edward* Confessor: *Rex autem qui est summi Regis Vicarius, & ad hoc constitutus est, ut regnum & populum Domini, & super omnia sanctam ecclesiam regat & defendat ab injuriosis, malefícos autem distruat.*

1 Sal. 78. 71, 72, 73.

Isa. 49. 23.

Leg. S. Edw. cap. 19.

24. By this which hath been said, it is evident that the power of all Kings is alike and equal, *viz.* Supreme, and Gods Ordinance, and from the Law of Nature. The difference between Kings is only in the exercise of their power, some being contracted into narrower terms, and others of a more vast extent and dilatation. Where therefore one King extends the exercise of his power into the dominion of another, by conquest or otherwise, no new power ariseth from hence, but only an extension of the exercise of the old: And so by consequence, the invasion, usurpation, or conquest of Subjects or others, who before had no Regal power, cannot create any after.

No power arises from Conquest.

25. *Naturalia determinantur ad maxima & minima.* There is nothing in Nature but hath its beginning, termination, and ending: And so Regal power hath its beginning, termination, and ending from the Laws of Nature; and all men are to be subject to those powers, wheresoever they are: For no man, when he comes into the power of any Prince, whether he be his natural Soveraign, or not, but is obliged and subject to the power of that Prince wherein he is; therefore if a *Frenchman* goes into *Spain*, or a *Spaniard* comes into *England*, they are subject to the powers of *Spain* and *England*, so long as they continue there. And since it is impossible that two Supreme powers can be in one place; where any one King comes to be in the exercise of another Kings power, he is subject to that King so long as he continues in the exercise or dominion of that King. By more reason therefore ought the Subjects of any Prince to be in subjection to Supreme powers, so long as they continue in the exercise of their power, whether it were by Conquest, or not. Besides, God hath ordained Supreme powers for mens preservation, not their destruction. And there must be some visible power upon earth, which may put a period to and decide differences, or they will be endless: But there is no power under heaven, but their sword, that can put a period to the differences of Princes, what therfore in such case the sword decides, ought to be obeyed; and the conquered Subjects; nay Princes who come into the dominion or exercise of anothers power, ought to be subject to it, so long as they continue therein: God therefore pronounceth *Zedekiah* a Rebel against *Nebuchadnezzer.* But this reason cannot hold for Subjects against their Soveraign, where the Law may decide their differences, and where by no Law of God or Man they are permitted to take the sword.

How far, and when Conquest is to be obeyed and submitted to.

1 Chro. 36. 13.

Regal power cannot be transferred nor communicated by any humane or voluntary act.

26. *Cujus est velle, ejus est nolle:* No power less then that which made any thing, can alter it: But Regal power is Gods ordinance; therefore nothing less then the power of God can alter, transfer, or communicate it.

poſſeſſions ſtill, for all me: Yet would I not for any good in the world venture my life in any of them, or judge any man to death in any of them, unleſs it could be made appear that God, or the Law of Nature did ever inſtitute any ſuch things, or that any where in the world they were not uſurped, or introduced by them who had no right to do it. But however, it is a moſt unreaſonable thing, that their actions of Adoption and Election ſhould be taken for precedents in rightful Hereditary Monarchies, which cannot admit them without a total diſſolution, and do juſtly attribute their Governments to a higher then humane cauſe.

Wherein the deciſion is to be by Lot.

21. Where in Hereditary Monarchies the whole Line is extinguiſhed, there the deciſion is to be by Lot; for, *The lot is caſt into the lap, but the whole diſpoſition of it is of the Lord, Pro.* 16. 33. But if any one gets the poſſeſſion before ſuch diſpoſition, his Title by the antecedent propoſition is good enough; beſides we have demonſtrated by *para. cap.* 1. *lib.* 1. that *Jus primi occupantis* is good by the Law of Nature.

How bleſſed and happy men are, where Supreme powers and Laws are certain.

22. If it be *Miſera ſervitus, ubi Jus eſt vagum aut incognitum*; a miſerable ſervitude, where the Law (our Lawyers by *Jus* underſtand Law) is wandring or unknown: Then by the Rule of contraries, it is a happy Freedom, where the Law is certain and known, to which a man may ſafely and ſecurely direct his actions. If it be a miſerable ſlavery, where the Law is wandring and unknown; how much more miſerable a ſlavery is it, where the Supreme Power is wandring and unknown? What confuſions, murders, rapine and ſpoil of all things ſacred and civil, muſt men neceſſarily fall under? The woful and miſerable condition of this Nation ſince our late Diſtractions, hath ſufficiently manifeſted the conſequence of it. If then ſuch a condition be ſo miſerable, how happy then is that Nation, where by Gods mercy men are certain who is their Prince, and to whom they may ſecurely pay their obedience, and aſſuredly expect protection in their lives and eſtates? If there be nothing more ſervile and baſe, then to be inſulted and tyrannized over by them, who by no right command over us; how ingennous and virtuous is it to be ſubject, where by all Divine and Humane laws we owe our obedience? For out of the offices of commanding and obeying, did never any man live; and where men will not be ſubject to them who may by right command over them, they ſhall be ſlaves either to their own ambition, or to others, who by no right command over them. And if it be moſt woful and horrible by reſiſting Higher Powers to incur damnation; (Note, the Apoſtle does not ſay, You muſt needs be ſubject to Governments, and whoſo reſiſts Government ſhall receive to himſelf damnation; for the Empire of Thieves, Robbers and Uſurpers, is Government; but to Higher Powers who have a right of command from God:) to what a condition then have men brought themſelves, where either they are uncertain of the Supreme Power, and ſo are either uncertain whether in their actions they incur this dreadful ſentence; or elſe where they are certain where the Supreme Power is, and yet dare not for fear of their lives actively ſubmit to it. Who is the rightful *Engliſh Soveraign*, and to whom all *Engliſhmen* by all Laws of God and Man owe their obedience, is ſo evident, that I never heard any man deny or diſpute it.

Rom. 13.

The end for which Regality was ordained by God.

23. The *ratio finalis*, or the end for which God hath ordained Kings, is for the protection of them whom God hath committed to their charge and government; not only by all juſt and due means to protect them from the

the outward violence and oppression of their outward Enemies, but also in peace inwardly, and by all means to suppress all faction and sedition of ambitious men, who would disturb it. *He chose David his servant, and took him from the sheepfolds, as he was following the ewes great with young; he took him that he might feed Jacob his people, and Israel his inheritance: So he fed them with a faithful and true heart, and ruled them with all his power.* And that *Kings may be nursing fathers, and Queens nursing mothers to Gods Church.* And consonant to these revelations of God by these noble Prophets, is the declaration of the Saintly King *Edward* Confessor: *Rex autem qui est summi Regis Vicarius, & ad hoc constitutus est, ut regnum & populum Domini, & super omnia sanctam ecclesiam regat & defendat ab injuriosis, maleficos autem distruat.*

1 Sal. 78. 71, 72, 73.

Isa. 49. 23.

Leg. S. Edw. cap. 19.

24. By this which hath been said, it is evident that the power of all Kings is alike and equal, *viz.* Supreme, and Gods Ordinance, and from the Law of Nature. The difference between Kings is only in the exercise of their power, some being contracted into narrower terms, and others of a more vast extent and dilatation. Where therefore one King extends the exercise of his power into the dominion of another, by conquest or otherwise, no new power ariseth from hence, but only an extension of the exercise of the old: And so by consequence, the invasion, usurpation, or conquest of Subjects or others, who before had no Regal power, cannot create any after.

No power arises from Conquest.

25. *Naturalia determinantur ad maxima & minima.* There is nothing in Nature but hath its beginning, termination, and ending: And so Regal power hath its beginning, termination, and ending from the Laws of Nature; and all men are to be subject to those powers, wheresoever they are: For no man, when he comes into the power of any Prince, whether he be his natural Soveraign, or not, but is obliged and subject to the power of that Prince wherein he is; therefore if a *Frenchman* goes into *Spain*, or a *Spaniard* comes into *England*, they are subject to the powers of *Spain* and *England*, so long as they continue there. And since it is impossible that two Supreme powers can be in one place; where any one King comes to be in the exercise of another Kings power, he is subject to that King so long as he continues in the exercise or dominion of that King. By more reason therefore ought the Subjects of any Prince to be in subjection to Supreme powers, so long as they continue in the exercise of their power, whether it were by Conquest, or not. Besides, God hath ordained Supreme powers for mens preservation, not their destruction. And there must be some visible power upon earth, which may put a period to and decide differences, or they will be endless: But there is no power under heaven, but their sword, that can put a period to the differences of Princes; what therfore in such case the sword decides, ought to be obeyed; and the conquered Subjects; nay Princes who come into the dominion or exercise of anothers power, ought to be subject to it, so long as they continue therein: God therefore pronounceth *Zedekiah* a Rebel against *Nebuchadnezzer.* But this reason cannot hold for Subjects against their Soveraign, where the Law may decide their differences, and where by no Law of God or Man they are permitted to take the sword.

How far, and when Conquest is to be obeyed and submitted to.

1 Chro. 36. 13.

Regal power cannot be transferred nor communicated by any humane or voluntary act.

26. *Cujus est velle, ejus est nolle:* No power less then that which made any thing, can alter it: But Regal power is Gods ordinance; therefore nothing less then the power of God can alter, transfer, or communicate it.

Yet is the exerciſe of it ſubject to violence: As, *Gravia ſurſum, levia deorſum feruntur*; yet may a man by violence throw a ſtone upward, and depreſs ſmoke from aſcending, without altering the nature of either. So though Regal power cannot be transferred nor communicated by Man, yet is the exerciſe of it not only ſubject to violence and uſurpation, but alſo being voluntary, may be ſuſpended by Supreme powers themſelves, without any diminution of the power or right of exerciſe of it. When therefore Subjects or Enemies do unjuſtly invade and poſſeſs the Dominion of another, this poſſeſſion does not diveſt the right or *jus ad rem* of that other, but only ſuſpend the exerciſe of the others power or right during ſuch uſurpation. So may a King by a league or peace with others by his act, ſuſpend the exerciſe of his power in any place unjuſtly uſurped from him by others, yet without diminution of his power or right to that place: But this act cannot oblige his Succeſſor, nor himſelf after ſuch term, but they have a juſt cauſe of war if it be not reſtored.

Having thus far treated of the efficient or final cauſe of Regal power, it is time to deſcend to the Attributes of it.

CHAP. III.

Of the Attributes of Regal power, and incidently of the Power of Magiſtrates.

The ſword of Juſtice is his, who hath the Supreme power.

1. WHo hath the Supreme power, hath the ſword of Juſtice to puniſh them who tranſgreſs Laws, and endeavour to cauſe ſedition: *He is the Miniſter of God to thee for good; but if thou do that which is evil, be afraid, for he beareth not the ſword in vain; for he is the Miniſter of God, a revenger to execute wrath upon him that doth evil*, Rom. 13.4. *And Gods rod in his hand*, Exod. 17.9.

The power of making War and Peace, belongs to the Supreme power.

2. The end of all Government is, either to preſerve the governed inwardly in peace, or to defend them from the outward violence and oppoſition of others. In vain therefore ſhould Government be, if he who hath the Supreme power, may not as well defend Subjects from the violence of others outwardly, as to preſerve them from factions and ſeditions within. And this power God gave to *Moſes*, *Joſhuah*, *David*, and all the Kings of *Judah*; nor can any King be a Supreme Prince without it, nor the governed in a probable condition of hoping for preſervation from it.

All Judgment is with him.

3. Judgment is the determining of a good or bad action, which cannot be in any who is ſubject to another. What therefore could be a more ſubtile temptation of the Devil to our firſt Parents, then to tell them, *Gen.* 3.5. that by eating the forbidden fruit, they ſhould be like to God, knowing good and evil. *Solomon*, as the moſt requiſite thing, prays to God, that he would give him an underſtanding heart, that he might be able to judge between good and bad, 1 *King.* 3.9. And, *The King by judgment eſtabliſheth the land*, Pro. 29.4. And, *Give the King thy judgments, O God, and thy righteouſneſs to the Kings Son, that he may judge the people according to right, and defend the poor*, Pſal. 72.1,2.

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4. The right of making Laws is with him: *The Scepter ſhall not depart from Judah, nor a Lawgiver from between his feet, until Shilo come*, Gen.49.10. *Submit your ſelves therefore to every ordinance of man for the Lords ſake, whether it be to the King as Supreme*, 1 Pet.2.12. And this is the onely viſible means by which Subjects may become ſafe, rich and happy. *Jus legiſlativum penes eum.*

5. In puniſhment, Equals cannot judge Equals, much leſs can Inferiors judge Superiors: But a Supreme Prince cannot have an Equal, much leſs a Superior; therefore a Supreme Prince cannot be puniſhed. If a Supreme Prince might be puniſhed for any thing he doth, then cannot he do any thing but he will be liable to puniſhment for ſo doing: For, what property can he give to one, which will not offend ſome other? Nor did the veriеſt Thief or Murderer ever ſuffer puniſhment, but ſome of his Comrades would ſeek revenge, and if they might, would puniſh the Lawgiver. Beſides, who ſhall judge his Prince? If any one, then every one may. *Let no man therefore be haſty to go out of his ſight, nor ſtand in an evil thing, for he doth whatſoever pleaſeth him. Where the word of a King is, there is power, and who ſhall ſay unto him, what doeſt thou?* Eccleſ.8.3,4. *The Lord forbid that I ſhould do this thing unto my Maſter the Lords Anointed, to ſtretch forth my hand againſt him, ſeeing he is the Lords Anointed*, 1 Sam.24.6. That he does all things without puniſhment.

It may ſeem to ſome, that this unlimited power of doing any thing with impunity, will only beget a confidence in Kings of doing what they liſt, without ever taking care of their duty in preſerving their Subjects from inteſtine broils and factions, and from the outward force and violence of their Enemies; whereas (more narrowly looked into) no men are ſo ſubject to care, and have their wills leſs then they: For, private men, if they do any thing in their paſſion, their fame and fortunes are alike, neither much removed from their perſons, few take notice of it: But they who are ſet in high place, all men take notice of their actions. In the greateſt Fortune therefore, is the leaſt Liberty, and that which in other men is termed Anger, in them is called Pride and Tyranny. Beſides, in private men it is enough that they themſelves do well; but Princes muſt have a care, that neither they, nor their Miniſters do ill. *Annot.*

6. *Tibi ſoli peccavi*, ſays the Pſalmiſt, *Pſal.*50. Humane Laws are the organs or inſtruments of the Power that governeth, they cannot therefore extend themſelves to bind him from whom they are derived; for, *Omnis potentia activa, eſt principium tranſmutandi aliud.* Beſides, the Prince may free other men from the obligation of the Laws, and therefore much more himſelf: And if Supreme Princes were obliged by their own Laws, then were Humane Laws, as well as the Laws of Nature, eternal and immutable, which is abſurd; nor could Humane Laws protect Subjects, when any thing happens (which comes to paſs every day) that was not foreſeen at the making of the Laws. Humane Laws are made to oblige and preſerve the governed, *neceſſitate coactionis*; but they cannot have any obligation upon Lawgiver who is the Supreme power, unleſs a man will grant that an Effect may be prime and ſuperior to the Cauſe. Nor were ever other Governments ſubject to their own Laws. The Supreme power is not obliged by his own Laws.

7. No Subject hath any Property (except Eccleſiaſticks) but by the Laws of his Country: But by the precedent Propoſition, no Supreme Prince can be obliged by his own Laws, and therefore no Subject can have property againſt him. If any Subject had property againſt the Supreme No man hath any thing proper againſt the Supreme power.

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power, then could not the Supreme power impose a Forfeiture of Goods in case of *Præmunire*, Attaint, Conviction of Treason or Felony: But the Consequence is false, and therefore the Antecedent is false, That any man hath any property against the Supreme power. Besides, there could no Fine, nor Fine and Recovery be levied or suffered, if he in Reversion or Remainder had property against the Supreme power: Nor could an Act of Parliament enable Tenant for life to make sale of his Estate.

Annot. It is remarkable, that the Children of *Israel* should not be content to have God to reign over them immediately, who did himself give them Laws, being enquired of by the High-Priest. *Samuel* might well say therefore unto them, *Ye shall cry in that day because of your King, which* (not ye shall choose, but which) *ye shall have chosen you, and the Lord shall not hear you in that day*, 1 Sam. 8. 18. For Gods ways and actions are always perfect, whereas by the reason of humane frailty, the best mans actions are subject to imperfections. But if it seems grievous to any man, that he holds his goods at the will of another; let him consider, that God, since *Adam*, did never give any Nation (but only the Children of Israel) Property, but always used the mediation of his Vicegerents: And since Property must be derived from some Humane act, (for the Law of Nature gives none but to Supreme Princes; and therefore the possessions of Kings are called *Sacra patrimonia*, because Kings have no Superior but God Almighty: *Prædium Domini Regis est directum dominium, cujus nullus Author est nisi Deus.*) How much better is it for Subjects to hold of one Man, then of many? For nothing can be objected against one, but will have more force against many: And let any man shew me in these last five hundred years, any Subjects estate taken from him without due and legal proceeding, by the act of any of the Kings of *England*; and I will shew him five hundred, who not being liable to any punishment by Law, have been ruined themselves and their families in seven years, and that for observing the Laws, and against the will of the King.

Sir *Ed. Co. Com.* on *Lit.* p. 1. 6.

Annot. 2. Obj. But many Actions have been brought against the King; which, if no man hath Property against him, may seem inconsistent.

Answ. But the question here is not, what the King may do, but what he hath done; Not what the King may declare Law, but what he hath already declared Law.

Power of Magistrates from him. 8. Majesty is from the Law of Nature immediately; but the power of Magistrates is not so, but mediately, that is, from him who hath the Supreme power. Magistracie is the instrument or organ by which Majesty is conveyed to every place, whither its own power is extended: And as Majesty is restrained to the Laws of Nature, and is accountable to God for all the omissions and transgressions of them; so Magistrates are restrained to Humane Laws, and ought to give an account of their actions to him that hath the Supreme power. And as no man can offer violence or contempt to Humane Majesty, but it is a contempt and violence to the Majesty of Heaven; so no man can offer violence to, or contemn Magistrates, but it is done to Humane Majesty, from whence their authority is derived. Wherefore Subjects must submit to Governors who are sent by Kings, 1 *Pet.* 2. 14.

Annot. By this Proposition it is evident, that although Supreme power cannot be divided, yet the exercise of it may: For where a King is an Enfant, he

he cannot exercise his power, who can neither act any thing, nor expres what he would have done; nay it is impossible for the best and wisest King that ever was, to exercise his power every where; for one body can be but in one place at once, though the power thereof may be diffused every where, as the light and influence of the Sun is diffused every where, although the body of it can be but in one place: And the exercise of power by Magistrates, is like Gods governing the world by natural causes, who being the first Mover of all things, produceth natural effects by the order of second causes. *Jethro* his counsel to *Moses* therefore is to be taken; *Thou wilt surely weare away, both thou, and this people that is with thee: for this thing is too heavy for thee; thou art not able to perform it thy self alone. Exod.* 18. 18.

The Right of calling Assemblies belongs to Christian Kings.

9. *Quando lex aliquid alicui concedit, concedere videtur & id, sine quo res ipsa esse non potest*; where any Law Divine or Humane, does give any thing, it gives all the means, by which this otherwise could not be had. And that God by the Law of Nature has given Kings a power to protect their Subjects, we have sufficiently demonstrated; but it is impossible Princes should protect and govern their Subjects, if they might not rule their actions. Now all actions and motions are either regular or irregular: All regular motions and actions may be reduced to one certain beginning; where the beginning is not one, and certain, there they may be called commotions or confusions, rather then motions or regular actions. But all Assemblies are motions, and therefore they must be reduceable to some one certain principle, or they are irregular or commotions: If then Christian Princes have not a right of calling Assemblies, but others as well as they; then must it either necessarily follow that Christian Princes have not power sufficient to govern and protect their Subjects, and that their Subjects motions cannot be regular and orderly, but confounded and irregular, and so the law of nature, and the end for which God ordained Princes, inverted. For my part, I will not dispute the Power of God in the planting of the Church, either under the old or new Law, how that he did dispence with the actions and motions of his People and Ministers, and set Father against Son, &c. and that to make his Power known, he would plant his Church, notwithstanding all Temporal Powers whatsoever: but this I do affirm, that God after the deliverance of the *Israelites* out of *Egypt*, did give to *Moses* only this right of calling Assemblies, as appears clearly by *Numb.* 10. 2. for only to him is the charge of making the Trumpets to call the congregation together; It is true, that *vers.* 8. *the sons of* Aaron *shall blow with their Trumpets*, but neither *Aaron* nor the Priests had any Power to make them, but only *Moses*; they must therefore have them from him, and be his Instruments; and this Power was given to *Moses* as the supreme Magistrate, and not as High Priest, for *Aaron* was then High Priest, being before consecrated, *Levit.* 8. Nor was this Right given personally to *Moses*, but as *a Law to last for ever*. If any allegation be made against *Moses* because he was a Priest, it must cease with *Joshua* and the Kings after him, who were none; for *Joshua* by virtue of this ever lasting Law did call an Assembly of all the Tribes, and therefore of *Levi*, to *Sichem*, and *vers.* 28. dissolved it. After him did *David*, call the High Priest, and other Priests, not to consult of any secular affair, but about the removing the Ark; and afterward, 1 *Chron.* 23. 2. he gathered together all the Lords of *Israel*, with the Priests and Levites; and as he called them together, so his dismissed them, 1 *Chron.* 16. 43. The like did *Solo-*

Joshua. 24. 18. 1 *Chro.* 15. 4. 11.

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mon when the Temple was dedicated, called the Assembly, 2 *Chron*, 5. 2. dissolved it, *cap.* 7. 10. The like did *Asa*, when Religion was restored, and a solemn Oath of association for the restoring of it. *Jehosophat* did it when he proclaimed a publick Fast, 2 *Chron.* 20. 3. *Jehu* assembled them, when a solemn Sacrifice was to be performed. *Joash*, in a case of Dilapidations. *Josias*, when the Temple was to be purified, and a mass of superstition to be removed. *Hezekiah* made a law for the Priests and all their brethren to assemble, and in conformity to that law they did assemble; nor was this Assembly for any other thing then to cleanse the house of God, and for the affairs of the service of God, being things meerly spiritual. And since that God hath promised, that Kings shall be nursing fathers, and Queens nursing mothers to his Church, it must be meant of Christian Kings; for this could not be of *Josias*, because he was a King at the time of this prophecy, or before; it could not therefore be meant of him, for the prophecy is *de futuro, Kings shall be, &c.* Nor could it be meant of the Kings of *Judah* after him, for they were all Idolaters, and persecutors of Gods Church. It was therefore meant of Christian Kings: And how Kings can be Kings or Supreme powers, without this right, I do not understand: Nor can that saying of our Saviour's causing of wars and distraction, be otherwise reasonably understood, but only where Kings and Supreme powers have not received the Faith. And that Christian Kings did generally exercise this power after they became Christians, we shall shew hereafter.

1 *Chro.* 15.
2 *King.* 10. 20.
2 *Chro.* 34. 29, 30.
2 *Chro.* 29.
v. 15.

Who is a rightful Supreme Governor.

10. He is a rightful Supreme Governor, who is a Sword-bearer, that is, whom God hath chosen to be his Minister; who hath not taken the sword, excited thereunto neither from any ambitious or spightful passion or affection, either of himself or other men: That may make, and abrogate Laws, determine all Controversies by himself or such Judges as he shall appoint, choose Magistrates and Councellors, and in whom is the power of making War and Peace. Nor did God give Kings to them only over whom he did reign by Covenant, but also to Heathens who had not known him; as to the *Persians, Syrians, Assyrians, &c.* he gave *Cyrus, Hazael, Nebuchadnezzar, &c.* And all antique History speaks only of the Government by Kings; as *Justin* says, *Principio rerum, gentium, nationumque imperium penes Reges erat*; before any other Government was usurped and made by Men.

Who is a Tyrant.

11. He is a Tyrant, who is a Sword-taker; who in stead of executing the wrath of God upon offenders, against all Law kills and murders them who are not of his own faction; who hath no power from God, but only force from the wills of inconstant and seditious men. As *Hos.* 8. 4. says, *They have set up Kings, but not by me; they have made Princes, and I knew it not.* Nor is it the Command of One, which makes Tyranny: The *Grecians* themselves called the Council of the Thirty, after the *Athenians* were subdued by the *Lacedemonians*, the *Thirty Tyrants of Athens.*

Annot. 1.

I am confident there was never any thing so wildly and variously ghessed at, as the manner how Dominion and Power came into the world, by those men who derive all power from the People originally. *Bodin, cap.* 6. *de Rep. p.* 46. makes all Dominion to be gotten at first by force; and *pag.* 46. *d.* he says, It is very like, that without greatest force and breaking down the Laws of Nature, Liberty could not be taken away. And many men will not distinguish between Force and Power, but only in the possession.

poſſeſſion. And ſure *Athaliah* was as much poſſeſſed of the Crown of *Judah*, and as quietly as any King before or after her, for ſix years; and yet I do not find *Jehojadah* or the people reprehended for reſtoring *Joaſh*. And the children of Iſrael did not rebel, while they could quietly place *Jeroboam* over them; but *Jeroboam* was declared a Rebel, after he was poſſeſſed. 2 *Chro.* 13.7.

12. When they over whom God hath given power, ſhall ſubmit themſelves to that power, this is a rightful Government: When all who owe their ſubjection, ſhall accept and receive the Laws of him, who by Right (that is, by Birth, Revelation, Lot, Firſt poſſeſſion, or juſt Conqueſt) ought to command. As the Children of Iſrael anſwered *Joſhua*; *All that thou commandeſt we will do, and whitherſoever thou ſendeſt we will go: According as we hearkened unto* Moſes *in all things, ſo will we unto thee; only the Lord thy God be with thee, as he was with* Moſes: *Whoſoever he be that does rebel againſt thy commandment, and will not hearken unto thy words in all that thou commandeſt him, he ſhall be put to death.* Joſ. 1.16,17,18. What is a rightful Government.

13. *Anarchy* is like a *vacuum* in Nature; ſo abhorrent, that the World will rather return into *Chaos*, then ſuffer it. And therefore *Cicero, lib.* 3. *de legibus*, ſays truly, *Sine imperio neque domus ulla, nec civitas, nec gens, nec hominum univerſum genus ſtare, nec ipſe denique mundus, poteſt.* 'Tis no wonder therefore if ſeditious men, when they have put themſelves out of power, are glad to ſubmit to *Tyranny*, rather then be overwhelmed with the *Chaos* and confuſion of *Anarchy*. The ſtate of Man out of power, is Tyranny.

Yet it is ſaid *Judg.* 17. 6. & 21. 25. *In thoſe days there was no King in Iſrael, but every man did what was right in his own eyes:* So it may ſeem that men may ſubſiſt in an *Anarchy*. It is true indeed, there was no man that was King in thoſe days in Iſrael; nor was there then that abſolute neceſſity of one; for God had given them Property, and did govern the Iſraelites, and they did enquire judgment of God, who did anſwer, *cap.* 20. 18. And men did in thoſe dayes commerce and exchange one with another; which is evident by *Micha's* contracting with her Levite-Prieſt, for ten ſhekels of ſilver by the year, a ſuit of apparel, and his victual, *ch.* 17.10. *Annot.*

14. Princes do tranſgreſs their power, when they command any thing contrary to what God hath commanded, or derogatory to the worſhip and ſervice of God; when they make unjuſt War; when they pronounce Judgment not according to the declared and known Laws, but puniſh either by paſſion, or to pleaſe factious men, as in the Earl of *Straffords* Caſe; or paſs ſentence againſt one unheard, as in *Cromwell* Earl of *Eſſex* his Caſe. Wherein Princes do tranſgreſs their power.

I ſay, not puniſh upon paſſion, or to pleaſe men: For as the ſtate of affairs may be ſtated, Princes may puniſh, though not in a Judicial manner; as when Subjects are in Arms againſt their Soveraign. Nor do I think that any unintereſted Caſuiſt will deny, that *Henry* the Third of *France* did juſtly put *Henry* Duke of *Guiſe* to death, though not judicially; the Duke having taken Arms againſt him, and made him flie out of *Paris*, fomented ſeditions againſt him, and taken penſions of the King of *Spain* to maintain war in *France*, and become ſo popular, as the King had no means to proceed legally againſt him. *Annot.*

15. * The perfection of Government conſiſts firſt and chiefly, that the Governor have a perfect and indubitable Title, againſt which no juſt exception * How careful Princes ought to be in commanding, or making of Laws.

ception can be taken. Secondly, that the Governor makes it his chiefeſt care, that the Religion, or Worſhip and Service of God be duly adminiſtred. And thirdly, that he does endeavor by known and eſtabliſhed Laws to adminiſter Judgment and Juſtice indifferently to his Subjects, with careful moderation of the ſeverity of the Laws, whereas men by no fault of theirs incur the ſeverity of them. And laſtly, by all juſt and due means to endeavor the preſervation of his Subjects from the oppreſſion and violence of Foreiners, and to maintain Peace and Commerce with his neighboring Nations. Such was our Government before our unhappy differences; and ſuch by Gods grace do I hope to ſee it again.

How careful Princes ought to be in commanding, or making Laws.

16. It were a fine may-game to be a King, if Kings might make their Will the rule of their actions. It is true indeed, God hath not in all things commanded Kings what Laws they ſhall govern their Subjects by: yet this natural law are all Princes obliged to, that their Laws by which they govern do more relate to the good of their Subjects in general, then their own particular intereſt: And no queſtion but a King commits a more grievous ſin doing any unjuſt thing to any of his Subjects, then if another had done it, in regard of the relations which are between them; as a Fathers doing an unjuſt thing to his Child, is a greater ſin then if another had done it, by how much by the Law of Nature he ought to have done well to his Child, rather then another. Princes therefore by the Law of Nature, in governing, ought to have more reſpect to the general good of their Subjects, then their own particular intereſt. Yet is Magnificence a Royal virtue; and therefore ought not the Revenues of the Crown to be parted with, by which it ſhould be maintained: Nor would it conduce to the benefit of the Subjects in general, to make the Revenues of the Crown poor: Where Majeſty grows contemptible, the exerciſe of Regal power is never permanent. Princes therefore ought to have a great care, that by their vices, prodigality of the Revenues of the Crown, remiſs governing, or by ſo giving it over to others that they ſo much neglect it in themſelves, as to make themſelves vile and contemptible.

Princes ought not to be obeyed, when they command in derogation of Gods Majeſty. 1 *Sam.* 12.14. *verſ.* 25.

17. Though God hath not commanded Kings in all things, what are the Laws by which they ſhall govern; and therefore divers Kings govern their Subjects by ſeveral Laws, as their Subjects differ in nature and manners: Yet hath he forbidden all Kings to make Laws derogatory to his Divine Majeſty. *Samuel* therefore threatens *Saul*, as well as the *Iſraelites*, that if he or they diſobey God, and do wickedly, they ſhall periſh both they and their King. And it was to *Saul* that God ſaid, that *Rebellion was as the ſin of witchcraft, and ſtubborneſs as the wickedneſs of idolatry.* Nor was the ſin of the Iſraelites in committing idolatry, under the Kings of *Judah* and *Iſrael*, the leſs, though the King commanded it: Nor did God ſcarce ever ſhew a greater miracle, then in delivering the *Three Children*, and *Daniel*, diſobeying the Kings wicked commandment. Princes therefore ought not to be obeyed in commanding things derogatory to the Majeſty of God.

1 *Sam.* 15. 23.

Or contrary to Religion.

18. Nor ought Princes to be obeyed, when they command any thing contrary to Religion; for, *The kingdom of Heaven and the righteouſneſs thereof is firſt to be ſought:* But the kingdom of Heaven is only to be ſought by Faith and Religion. *Daniel* therefore ſinned not, when he obeyed not *Darius* in praying to God. Nor do all our Parliamentary Laws add any thing to the

the obligation of mens worſhip and ſervice of God, in the Unity and Form of the Church of *England*; for men were as much obliged in Conſcience before ſuch Laws, as after. Not but that Kings ought to have as great, or greater care of preſerving unity and peace in Gods Church, as in their Temporal Dominions; and therefore may puniſh diſturbers of the peace of the Church, as well as the State: Yet when the Temporal Magiſtrate ſhall arrogate to himſelf a power which our Saviour only left to his Church, and make all Eccleſiaſtical rights and conſtitutions depending and ſubordinate to the Civil, whereby the Enemies of our Church have taxed our Religion not for Chriſtian, but Parliamentary; no doubt but it is a crying ſin, and I wiſh there had never been any ſuch thing among us.

19. And as God is to be obeyed before men, in all things which concern Faith and Religion; ſo in the obſervance of the Laws of Nature, is God to be obeyed before men. As if a King commands me to diſhonor my parents, this can be but a Humane law; but to honor my parents, is a law which God hath written in my heart, and therefore ought to be preferred. If a King commands his Subjects to diſhonor him, or to deny obedience to him, this is but a Humane law; whereas by the law of Nature I ought to honor and obey my King: I therefore ought not to obey ſuch a law. *Amurath* the Second of that name, King of the *Turks*, upon a Vow reſigned his Kingdom to his ſon *Mahomet*; yet upon the League made by *Uladiſlaus* King of *Pole* and *Hungary*, with other Chriſtian Princes againſt him, he reſumed his Regal authority, and ſo kept it until his death: And ſo might *Charls* the Fifth, if he had pleaſed; nor was *Philip* any other then an Inſtrument of his Fathers, during his Fathers life. Or the Laws of Nature.

The King makes a Law, giving the ſucceſſion of the Crown from the right Heir: This ought not to be received; for Princes inherit by a higher Law then Humane.

20. The King commands a Judge to pervert Judgment; the Judge ought to give true Judgment; for all Humane Laws (in peaceable times) ought to be *à priori*, and proclaimed that all men after ſuch a time ſhould obſerve them. This verbal command of the King wanting this formality, and it being impoſſible for the Judge to obſerve both theſe commands; he ought, notwithſtanding this verbal command, to give Judgment according to Law. Or to pervert Judgment.

The King, when there is no neceſſity or publick danger, commands me who am no publick Executioner, without any Judicial ſentence to put a man to death, for which he can make no compenſation: As *Davids* commanding *Joab* to murder *Uriah*; although we find *David* only reprehended and puniſhed therefore, yet ſure if *Joab* had not fulfilled *Davids* wicked command, he had not ſinned. *Quare.*

But you may object, Who ſhall judge whether this thing commanded be repugnant to Gods Majeſty, Mans faith, Religion, or the Law of Nature; the King, or the Subject? I ſay, though the Subject hath not an equal right of judging with the King, whether this thing ſhould be a Law, or not; yet every Subject hath a Conſcience, as well as the King, which muſt dictate to him whether he ought to do, or not to do ſuch a thing.

21. But if the King commands things contrary to Gods Majeſty, and Divine Laws, ought he not to be obeyed in thoſe things which do not contradict them? It is ſo mad and wild an objection, as it is ſcarce worth an anſwering; Whether Kings diveſt themſelves of Regality, by commanding what they ought not.

answering; unless a man will affirm, that my doing of an act which I ought not to have done, does divest me of Humane nature; or that a Fathers or Masters commanding his Son or Servant what he ought not, doth annihilate the relations of Father and Son, Master and Servant; or that Humane acts may dissolve Humane relations. A Prince therefore ought to be obeyed in those things which he ought to command as Prince, although he command such things as he ought not.

Though inflicting punishment for not observance.

22. It may be it will be objected, That Temporal punishments being the usual concomitants for not observing Humane Laws, a good and conscientious man may be punished for what he ought not to have done. I say, his case is the same with his Lords and Saviours, and all those blessed and glorious primitive Christians and Martyrs, who suffered for the testimony of a good conscience. Nor hath God made Heaven so easie a prize, that it should be always won easily and delicately, but many times by suffering and martyrdom.

Whether Princes ought to be resisted, where they are not to be obeyed.

23. It is the most usual thing with seditious men, before they enter into open sedition, to prepare mens mindes with certain Cases, wherein Princes commanding things derogatory to Gods Honor, or the Subjects Liberty, that then in the preservation of themselves, and Gods honor, they ought to defend themselves from the raging Tyrannie of Princes; and to be sure, that whatsoever they command, these good men will judge contrary to Gods Honor, and the Liberty of the Subject.

It is worth the while, if a mans patience will give him leave, to look back upon the thing calling it self *Parliament*: how after they had made the King grant whatsoever they could think might be beneficial to the Subjects, (though I might be sworne they never intended (as plainly appeared afterward) the good, benefit, or liberty of the Subject;) what pious ways they invented to make themselves great, and so good a Prince nothing, and odious to his Subjects: As the demanding of six men, holding intelligence with his Subjects who had been in open hostility and rebellion against him, (an affront not to be endured by any King) to an ordinary and Legal Trial; this was not only denied, but Voted a Breach of the Priviledge of Parliament; whenas the Priviledge of Parliament extends not to so much as breach of the Peace, much less to Treason. They pretend (though most falsly) that in case of extreme danger and necessity, the *Militia* is in the Parliament, meaning themselves, excluding the King: And then create Dangers, and write Letters how great Fleets of *Danes, Swedes, Hollanders, &c.* were seen at Sea; (It must be from *Westminster* then, for there were the Letters written, and the Fleets never since heard of.) Then, permit, if not command the most insufferable affronts and indignities that ever were offered to Majesty; yet if the King but offers to increase his Guard, this is Voted no less then a raising of War against his Parliament and Subjects: whilst all the while, against the *Lex & consuetudo Parliamenti*, without any cause moving them, they maintain an illegal Rout of men for their Guard, and go armed themselves. Nay, what needs a man instance particulars? All the Kings commands in prosecution of the Laws, were Voted breaches of the Priviledges of Parliament, and the Liberties of the Subject. We will therefore shew that this Assertion is not only contrary to all Faith in both Testaments, but also destructive to all Humane Society.

Inst par. 4. 14.

23. There

24. There is no man sure will deny, but that *Saul* did unjustly persecute *David*, with an intention to take away his life: Yet when *David* might twice have resisted *Saul*, and taken away his life, 1 *Sam. cap.*24 & *cap.*26. he refused to do it; and the reason was, because he was the Lords Anointed; *And who can lay his hand upon the Lords Anointed, and be guiltless? &c.* *Nebuchadnezzar* King of the *Assyrians*, not only destroyed the land of *Palestine* with fire and sword; not only destroyed *Jerusalem*, laying it level with the ground, burnt the Temple, carried all things consecrated and dedicated to Gods service, to *Babylon*, converting them to prophane uses; not only killed their King, carried the Jews themselves into most miserable servitude, but also to the contumely and dishonor of Gods Majesty, erected an Image to be divinely adored, upon no less penalty then to be thrown into the *fiery fornace:* Yet were these most holy men, *Shadrach*, *Meshech*, and *Abednego*, so far from resisting the King, though they could not obey him, that they patiently submitted themselves to the fornace, made seven times hotter for their sakes; and the blessed men were so far from seeking revenge, that upon Gods denouncing judgment to *Nebuchadnezzar* in a dream, *Daniel* (whose mischief was no whit less intended) prayeth that the dream might be to them who hate his Lord, and the interpretation thereof to his adversaries. Far unlike to the spirit of *Calvin*, who commenting upon *Daniel*, makes Kings to divest themselves of all power, when they command in dishonor to God; and to spit upon their heads rather then obey them, &c. And though *Nebuchadnezzar* were so wicked, yet being a King, Gods calls him *his servant*.

To resist Princes, though commanding unjustly, is contrary to faith in the Old Testament. 1 *Sam.*24.6. *cap.*26.9.

Dan. 3.

*Jer.*25.9.

25. S. *Peter* teacheth, that it is thankworthy, if a man for conscience towards God endure grief, and suffer wrong undeservedly: *For what praise is it, if when we be buffeted for our faults, we take it patiently? But if when we do well, we suffer wrong, and shall take it patiently, then is there thank with God. For hereunto were we called; for Christ also suffered for us, leaving us an example that we should follow his steps, who did no sin, neither was guile found in his mouth; who when he was reviled, reviled not again, when he suffered, he threatned not, but committed the vengeance to him that judgeth righteously.* What more plain lesson can be given to Christians to suffer, and not to resist Princes, for the testimony of a good Conscience? And if ever man had just cause to resist, then had our Saviour, and S. *Peter* in his defence; yet would not our Saviour allow it, but tells him, that *whoso takes the sword, shall perish by the sword.*

Against the faith of the New Testament. 1 *Pet. cap.*2. 19,20,21, &c.

*Mat.*29.52.

26. That which I as a private man may assume to my self as a man, is due to another as a man; otherwise it were a great arrogance in me, to allow that to my self, which I condemn in another. But if I may ascribe to my self a power of judging when I may resist my Prince, then ought I to allow it in another; and so by consequence, every man should have a power of judging how long he shall continue in obedience, and not resist his Soveraign. Now what Society there can be, where any man may make himself free from all Humane Laws (without which there can be no Society) and resist them when he sees occasion, (for where men may resist, there can be no subjection) let any man judge. Nay, where men did ever ascribe to themselves a right or power of resisting their Soveraigns, they did never stay there, but made all the unjust usurpation and hostile invasion they could upon them who continued in obedience to their Prince: And what Law of God,

Destructive to all Humane Society.

or Man, or Rule of Society, gives me a liberty to kill and murder innocent men, because I have sinned in resisting where I ought not. By our Country-Laws, if a man assaulted another, who goeth back to some hedge, ditch, or wall, &c. beyond which he cannot pass, and then in his own defence kills the assaulter; yet such a tender care had the Common-Law of a mans life, that though this were done by inevitable necessity in the preservation of an innocent mans life, that he should have suffered death therefore: And though by the Statute of *Gloucester* he shall save his life, yet he shall forfeit his goods and chattels. Nor is this damnable opinion of resisting Princes, less destructive to other men then the Assertors: For why may not any man do that to them, which they of themselves have done to their rightful Soveraign, and his obedient Subjects?

Inst. 3 *par.* p. 55, 56.

Wherein Princes commanding unjustly, ought to be obeyed actively.

27. It is *Humanum errare*; Fallibility is concomitant with humane nature: And no doubt but Princes, being men, are subject to humane frailty. Yet as Humane Laws will admit of (although not intend) a mischief to particular men, rather then endure an Inconvenience; so the Laws of Nature will admit of many things contrary to Nature, rather then endure a Vacuity. I say therefore, that there are many things so inherent in the Prince individually, that they are incommunicable to any other: And therefore the Prince offending herein either through humane frailty, or passion; yet if he command unjustly, the sin is his in so commanding, and not the Subjects in obeying. As if a Prince makes unjust War, yet if the Subject obey him, it is not the Subjects sin in obeying, but the Princes in making such a War: For if Subjects might judge whether a War were justly undertaken, or not, and so be freed from his obedience, when he would judge it unlawful; then any, or all Subjects, either through fear or faction, might desert their Prince in any War, and so the Prince left destitute of protecting himself or Subjects; whenas *Salus populi est suprema lex*; and of this is the Prince the sole and individual Judge. If Princes give unjust Judgment, the Executioners of Judgment ought to execute the Sentence although unjust; for they are not obliged to take notice of the Injustice of the Sentence, but of the Sentence. The Act of Parliament against *Cromwell* Earl of *Essex* did oblige, although unjust; he being in peaceable times, without any urgent necessity, condemned unheard; yet was it no sin in the Executioner to execute it.

Inst. 4. *par.* 37.

What is Monarchy.

28. Monarchy is, where the Empire or power of governing is in one Person, from whom all Humane Laws, Magistracie, and Protection of Subjects is to be expected.

What is Hereditary Monarchy.

29. Hereditary Monarchy is, where this Right, Title or Empire descends to the Heir General, or Male; and this latter is proper only to *France*, and that by a pretended *Salique* Law.

No Prince can give, sell, or transfer his power.

30. *Delegata potestas non potest participari*: No man can participate, much less alien the power which he is intrusted with: But supreme power is delegate from God to every Prince; and therefore no Prince can give, sell, or bequeath his power to any other. The King is Gods Lieutenant upon earth, *Coke* 3 *par. Inst. cap. Deodands, fol* 57.

Elective Monarchy.

31. It may be the Electors are the Instruments by which the Elected King or Monarch receives his power; but I do not understand how such a King can be a Supreme Prince. Yet this by the way: Neither now nor heretofore was ever such Prince chosen either by the people in general, or by the Masters in families, nor the Electors chosen by them. 32. A-

32. Aristocracy is when a company of men met in Councel, ascribe to themselves whatsoever power is due to any rightful Monarch, not being chosen by the people in general, but have places either by birth, or as they are chosen by the Council, such is the state of *Venice*, such were the *Roman* Senate, and *Ephori* of *Lacedemon*. Aristocracy.

33. Democracy is, when they who being free of the City, do meet at a time and place appointed, where they choose Ministers and Officers, make and alter laws, and do whatsoever they think good, or what shall appear good to them, as represented to them by popular Orators: But because business might so fall out, that there might be a necessity of making War or Peace, raising mony for defence of the Commonwealth, &c. besides the times and places appointed, the *Athenian Archon*, and *Tribunes* of the *Roman* people had liberty given them to assemble the people when they thought fit: I think no man can well tell whether the *Roman* Government before *Cæsars* dictatorship were Democratical or Aristocratical: For though men might appeale from the Consuls to the Tribunes, yet by an Act of the Senate after the suppressing of the *Gracchi*, the Consuls might provide that the Commonwealth should receive no detriment, which is as general and high a power as can be given: No wonder then if *Marius* pretending the power of the Common wealth, and *Sylla* the authority of the *Senate*, should reduce both *Rome* and *Senate* to so lamentable a condition; and that *Julius Cesar* assisted by *Lucius Antonius* and *Quintus Curio* the *Tribunes* of the people, and *Pompey* by the *Senate*, should raise such War and commotion every where, to the utter subversion of the absolute power (as they called it) both of *Senate* and people. Democracy.

CHAP. IV.

Of the three Species of Government, viz. Monarchy, Aristocracy, and Democracy.

1. IMperium *est duplex*, *solutum legibus*, and *astrictum legibus*; this is Empire restrained to the Laws, and is of Magistrates, who although they command private men, yet they themselves are bound by the laws and command of their superiors, which is the power of our Judges, Justices, &c. That is Majesty, an Empire, which is the Arbitrator, Moderator, Controuler, and maker of all laws, and who justly has it, is accountable only to God: and this Empire is so essential to all Government that without it there can be no Kingdom or Commonwealth; there cannot be any property, any *meum*, or *tuum*, but what this Empire gives; no man has any security of his life or estate, but as he is preserved and protected by this power or command: And though government do differ (as it hath been and yet is in many places of the world) *in specie*, *viz. Monarchy*, *Aristocracy*, and *Democracy*, yet in all of them this power or command is the same and equal, *viz. Supreme*: And this power or command must be in one thing, *viz.* in one man, in one court, in one people; but if it be divided into two or more, it is either *supervacaneous*, or *destructive*; for those two or more in There are but 3 species of Government, and all compounded Government, is either supervacaneous or destructive to the Governors and Governed,

in whom this divided Empire does consist, must either agree or disagree in the same thing; if they agree to will or nill the same, then it is *supervacaneous*, for it had been all one if but one part had willed it; and *frustra fit per plura, &c.* but if they disagree in willing or nilling the same thing, it is destructive, for it is impossible for the Subject to obey, because the Law it self is a contradiction; and if the Subject obeys one, he disobeys the other, and to obey neither brings *Anarchy* and confusion upon all the governed: What is left then but the Subject to be divided, aswell as the power? *and a Kingdom divided in it self cannot stand, St. Mar.* 3. 24. Neither are the Governors, in whom this divided power or command does consist, in any better case then the Subject; for,

Lucan. *Nulla fides regni sociis, omnisque potestas*
Impatiens consortis erit.

It were infinite to enumerate the sad consequences which division of Kingdoms have brought upon those Kingdoms where they were made; Let any man look upon the Estate of the *Roman* Empire, when it was divided by *Constantine* the Great among his three sons, *Constantinus, Constantius, & Constans.* Nor did ever the Empire retain the name and dignity, after the division made by *Theodosius* to his sons *Arcadius* and *Honorius.* Nor was the Western Empire ever raised again to near the greatness it had in *Charlemaines* time, after the division made by *Lotharius, Lewis,* and *Charles,* sons of *Ludovicus Pius*; and what horrible confusions followed upon the divisions, is easie to be imagined, whenas in the first Battel between the brethren, was slain the greatest part of the Nobility of *France*; and more men died in it then in any other battle that hapned in *France,* since that fought between *Ecius* and *Attila* King of the *Huns,* in the fields of *Catalonia.*

But that we may not go so far, and yet find examples neerer home, *Rodry Maure,* or *Rodry* the great King of *Wales,* Son of *Mersyn Frith,* had issue three Sons, *Mervin, Anarawd,* and *Cadelh.* In the yeare when he dyed *viz. anno. dom.* 877. (King *Alfred,* alias *Alured* then reigning in *England*) this Great *Rodry* divided his Kingdome of *Wales* into three Principalities. The First he called *Guyneth,* the English *Northwales,* the Latinist *Venedotia.* The Second Principality was called *Powisland,* in Latine *Powisia,* of some *Westwales* bordering upon *England.* The Third he called *Deherborth,* the English *Southwales,* in Latine *Demetia.* The First Principality, some say he gave to *Mervin,* others to *Anarawd.* The Second to *Anarawd,* some say to *Cadelh.* The Third to *Cadelh,* some say to *Mervin.* The First was the best because it was quieteſt. The Second often invaded and troubled by the *English.* Into the Third often incursions were made by the *English,* the *Norman,* and *Fleming.* The division of this Kingdom (however it was) wrought in process of time, such a division between these Princes, as it was never quiet untill it came under one Monarch or King again: for the Royal dignity of a Monarch or King, from whence all subordinate dignities, *tanquam lumen de lumine,* are derived, without any diminution, will suffer no division, *Regia dignitas est indivisibilis, & quælibet alia derivativa dignitas, est similiter indivisibilis.*

The most woful event that fell out in this Kingdome, when *Gordobug* divided this Kingdom between his two Suns, *Ferrex* and *Porrex,* and what heavy

heavy event came to pass, untill it was reduced again under one Monarch, let our Histories tell you; and letting pass others, I cannot overpass the miserable estate within this Kingdom under the Heptarchy, untill all was reunited under one Soveraign; and this is the reason that in *England*, *Scotland*, and *Ireland*, the Royal dignity is descendible to the eldest daughter or sister, *&c. Regia dignitas est indivisibilis.* Sir *E. Coke Inst.* 4. 243.

2. Of these Governments Monarchy is the best, as appears by reason, by the consent of the world, by the institution of God, and his commanding obedience only to this Government, and by woful experience. How many ways Monarchy is the best Government.

3. Monarchy in reason is the best Government, for the dignity and majesty of one man is more easie to be maintained then of many; The ills that follow from bad Monarchs, are no worse than what do and alwaies did happen from the best of humane Laws, *viz.* mischiefs to particular men; Nor can the mischiefs which happened to *Silus*, *Sabinus*, *Sillanus*, *&c.* (who not well brooking the powers of *Tiberius* and *Caligula*, Emperors as bad as who were worst) had been over-lavish of their tongues in vilifying the power of the *Cæsars*, and magnifying that of the *Senate*, and probably had they been able, would have advanced the power of the *Senate*, to the abdication of *Cæsars*) be compared with the inconveniences which came upon the *Senate* and people of *Rome*, in those times of *Silla*, and *Marius*, of *Cæsar*, and *Pompey*: Besides, factious and discontented persons cannot hope for that encouragement in their designs, where the supreme power is in one individual person, as where it is compounded of many. The freedome and liberty of the Subject is more under one, then more, for it is easier to obey one then many: The common people of *Rome* never enjoyed so much liberty as under the Emperors; and therefore when after the death of *Caligula*, the *Senate* endeavored to restore *Rome* to her antient liberty as they called it, and extinguish the name and power of the *Cæsars*, and to that end had seised upon the Capitol, they, aided by the *Prætorian cohorts*, continued the power of their Emperors, in *Claudius*, and the day and night wherein the *Senate* would not receive him, was the cause of much trouble, which *Josephus* notes, *l.* 19. *c.* 30. Monarchy is the best Government in reason. *Sueton. in vita Claud. cap.* 10.

4. By the consent of the world; for every where in the known world before 1641. either in *Europe*, *Asia*, *Africa*, or *America*, over Christians, Mahumetans and Infidels, (except the State of *Venice*, the usurped power of the *Cantons* in *Switzerland*, the State of the *Netherlands*, the *Hans*-towns, *Genoa* and *Geneva*, who seek protection of the Emperor and Kings of *France*) this Government is established. By the consent of the world.

5. By God himself; for he never instituted any Government either in Priesthood, Judges, or Kings, but only this, nor commands obedience to any other. *Can a man touch the Lords anointed and be guiltless? 1 Sam.* 26, 9. And *submit your selves to every ordinance of man for the Lords sake, whether it be to the King as supreame, &c. 1 Pet.* 2. 13. *Feare God, honor the King*: And *I counsel thee to keep the Kings commandments, and that in regard of the oath of God*: And therefore what thing an Unite is in numbers, the Minde in the faculties of the soule, a Centre in a circle, the same is God the most omnipotent King in the world, simple in unity, indivisible in nature, most holy in purity, placed by an infinite interval far remote above the fabrick of the highest Heaven, joyning this perspirable region with the celestial and intelligible, keepes and preserves from ruine, as by a secure care, the whole By Gods owning it only.

universe, framed and compounded in such admirable order and harmony, to whose great example ought every good King (who is the Unite, the minde, and centre of his kingdome) that hopes to govern and preserve his subjects not only safe, but honest and happy, wholly to betake himself.

By woful experience.

6. By woful experience: I do not find any mans life, (except the destitute and deposed Princes, *Arthur*, *Ed.* 2. *Rich.* 2. *Hen.* 6. and his sonne, *Ed.* 5. and his brother (herein, and in many other things doubtless more unhappy then private men) and the Duke of *Clarence*, after conviction and attainder, thought by the consent of *Ed.* 4. to be drowned in a Butt of Malmsey, and *Cromwell* Earle of *Essex*, condemned and executed unheard in Parliament (see a remarkable passage herein by Sir *Ed. Co. Instit.* 4. *fo.* 37. 38.) Queen *Katherine* fifth wife to *H.* 8. *Mary* Queen of *Scots*, and the Earl of *Strafford*) or estate, taken away by any of the Kings of *England* for these last 500 years in an extraordinary and extrajudicial manner. (If the dissolution of the Abbies by *Hen.* 8. be objected, I answer, it was usual in Parliament, to alter many things in the Common law: as the statute *de donis conditionalibus*, made a great alteration in the Common law; for before, all estates which were not for life and under, were either in fee absolute or conditional; and so the Statutes which gave power of entry, where before no remedy was to be had by Common law, but by a *Cui in vita*: And to Jointenants to compell others to sue a Writ of partition, &c. In case of life, the ordinary way of trial was by Peers, the Nobility by the Nobility, and the Commons by the Commons: but a Parliament being a body compounded of heterogenial and dissimilary parts, *viz.* King, Lords, and Commons, could not be Peers to any man, which was the usual way of Trial with us; neither were the Estates so taken from Abbots, &c. but that they enjoyed them, or a full value in lieu of them, during their lives, so that by this act no wrong was done to any man living. Yet it is true which Sir *Ed. Co.* saies in his Comment upon *Magna charta*, *chap.* 1. *Quod datum est Ecclesiæ, datum est Deo*, what was given to the Church, was given to God; which by the Law of God, *Numb.* 16, 37, 38. is unalterable, nor can be be employed to any profane or common use.) So that I am confident, I may safely affirm, that the Subject in seaven years under the Long Parliament suffered extraordinarily and extrajudicially, five hundred times more, then all their Ancestors in 500 years before, did from their Kings: The Barons warrs and those of *York* and *Lancaster*, *Wat. Tyler*, *Jack Straw*, &c. were caused by the rebellion and stubbornes of the Subject; nor is the sacred patrimony of the Crown and Church more secure then that of private men, but invaded and made a prey to soldiers, Sequestrators and Excise-men.

(a) Hereditary Monarchy is better then elective in relation to the Subject.

For the Antiquity of this Government, even among the Grecians, see *Thucid.* 2 ed by *H. Stephanus*, 1588. p. 10. Πρότερον δὲ ἐν ταῖς πόλεσιν ἦσαν ἐπὶ τὸ πλεῖστον βασιλεῖαι ἀρχαῖαι. Before that time (viz *Trojan War*) Kingdoms were hereditary, and confined to certain honors.

7. (a) Hereditary Monarchy is better then Elective, in relation to the Subject. If a man but considers the calamities brought upon the *Roman* Empire, only by choosing their Emperor, it were sufficient to make any man fear and tremble (that hath so much compassion in him as to pity wretched States) for that Nation who choose their King. When *Cæsars* line was extinct in *Nero*, *Galba* was scarce chosen and received Emperor, when *Otho* excites the Pretorian Cohorts to kill him and his adopted son *Piso*, to make way for himself. *Vitellius* is chosen almost at the same instant by the German Legions, that *Otho* was chosen by the Pretorian Cohorts: By this division the Empire is brought to so desolate a condition, that *Otho* (a vitious man) did kill himself, to prevent its further destruction; yet could

could not *Otho's* death purchase his Countries quiet: For, the *Mœsian*, *Pannonian*, and *Dalmatian* Legions, ascribe to themselves as good right in choosing an Emperor, as the *German*, and name *Vespasian*. *Rome* the Mistress of the known World, never felt such misery, as those Legions led by *Antonius Primus* brought upon her; which *Cornelius Tacitus*, in the latter end of the third book, and the beginning of the fourth book of his History, relates. That Emperor the Soldiers chose, scarce ever pleased the Senate; what Emperor the Senate chose, never pleased the Soldier. From *Marcus Aurelius* to *Diocletian* (who was the greatest Persecutor of the Christians, and renounced the Empire to take upon him a private life) not one Emperor of ten died a natural death. In *Gallienus* his time, Thirty at once; at no time less then three or four, but like *Hydra's* heads, when one was cut off, another sprung up: Into such a condition was the Empire brought by the Election of the Emperors. Nor was the state of the Western Empire much better, which he who reads the History of those times from *Charles* the Great, until the Constitution of Pope *Gregory* 5. *Anno* 1002. for choosing the Emperor, (*Otho* the Fifth not contradicting it) may see, which hath continued till this day: Yet the Electors considering the confusions caused in the nominations of their Emperor, have ever since *Rodolphus* the First, who was chosen *An.* 1272. continued their election in the House of *Austria*; so that upon the matter, the Empire is become hereditary, and the choosing but a Ceremony.

Platina vita Greg. 5. 151. *b.*

7. The miseries consequent upon the election of either Native or Stranger, are many: For there is no Native, who is not in distaste with some body; the choosing of whom gives power to take revenge not only upon him, but those that opposed him in his election; for it is hardly imaginable, all should agree in one. None of the rejected Competitors will be content to acknowledge the Elected; in stead thereof they will rather study ways to raise dissention about the manner of the Election, that either undue means were used in it, or though they had the fewer Votes, yet they who voted for them, were greater, better, or more Saint-like, whose Votes ought rather to be weighed, then the others numbred. These, it may be, and many other considerations have caused the *Polonians*, these many years, to look for him whom they choose their King, out of *Poland*.

The miseries consequent upon the Election of a Subject.

8. Let us see what the miseries consequent upon choosing of a Stranger are. He who is chosen, is either a Subject, or a Soveraign, (for between these two is no mean:) If he be a Subject, who (especially freeborn Soveraign people) will endure that another being a stranger, and a Subject too, should command over them? And where power is despised, the exercise of it is never permanent. If he be a Soveraign, he having now two Kingdoms, can personally reside but in one, which will disgust the other: It will be expected, that he observe the manners and dispositions of this Kingdom more then his other, because the people chose him; It will be expected by that Kingdom, that he retain the observations of the dispositions and manners of it, because he is their born King. *Philip* the Second did disgust the *Flemings*, because he retained his Spanish habit. He cannot do any thing so much in order to the good of the one, but it will as much excite the other to hate him; in being a servant to both, he shall please neither. And what was it which caused all those Wars raised in *Bohemia*, but the Election of *Frederick*, 1619. from whence too sprung all those devastations, and almost de-

The miseries upon the Election of a Foreiner, be he King or Subject.

deſtructions in *Germany* ſince, until the laſt Treaty at *Munſter*. From hence it was, that *Sigiſmund* the ſon of *John* King of *Sweden*, being choſen King of *Poland*, the Kingdoms differing both in Manners and Religion, (and it being impoſſible to pleaſe both) was not only himſelf, and all his poſterity for ever excluded from the Kingdom of *Sweden*, in a Conſpiracie at *Lincopen*, 1600. but hath been the cauſe of all that miſery and deſolation under which *Poland* lately lay: For, becauſe *Caſimir* the ſon of *Sigiſmund* will not renounce the Right which God by Primogeniture has given him, and acknowledge this *Barbarian* and Uſurper; he joining with the *Brandenburgher* and *Tranſilvanian*, (and ſeeks aid of the *Turk* too, who being the beſt Chriſtian of theſe four, refuſeth to give him any) robs, ruines and ſpoils *Poland*. Add hereunto the calamities and confuſions which happen in the intervals of their Kings; which whoſo reads the Hiſtory of *Pole*, may ſee: Whereas in an Hereditary Kingdom, where the Heir is known and a Major, no confuſions probably follow: And no man ſure will deny, but that an Hereditary Monarchy is better for the peace and quiet of the people, then an Elective.

Hereditary Monarchy is better then Elective, in reference to the Crown and patrimony thereof.

9. Hereditary Monarchy is better then Elective, in relation to the Rights, Patrimony, and Dignity of the Crown: For where the Crown deſcends to the Heir, the King will uſe what means he can for the advancement of the honor and dignity thereof, that himſelf in his poſterity, as well as his perſon, may be great and renowned: whereas he who cannot hope that his Heir ſhall enjoy it, will uſe what means he can for proviſion and maintenance for his Children, although it be to the prejudice and diſhonor of it; for ſure no man can imagine, that becauſe a Man is a King, that therefore he ſhould diveſt himſelf of Nature, and neglect to uſe ſome means to get an Eſtate for his Poſterity, where there is none provided? If it be objected, that the Crown deſcends to the Heir, not to the poſterity, if more then one: I anſwer, That no Crown but hath many Offices and Dignities appertaining to it, which deſcend to the Heir, he probably will not reject his own fleſh and blood to advance ſtrangers; whereas in an Elective Kingdom it cannot be hoped for.

The Government of *Britain* was ever Monarchy Hereditary, before 1641.

10. The Government in *Britain* and *England*, untill 1641. was Monarchy hereditary: If you believe Mr. *Selden* in the Firſt Book *cap.* 1. of his *Analecton Anglo-Britanicon*, he will tell you (upon the Faith of *Jeoffrey* of *Monmouth*) the ſtem and progeny of *Brutus* the Nephew of *Æneas*, and give you a ſeries of the Government of his poſterity to *Caſſivellanus* King of the *Trinobantes*, when *Ceſar* firſt made his invaſion here, and *cap.* 5. from *Caſſivellanus* to King *Lucius*: Now I trowe our Author for the honor and reverence of the Apoſtolick ſea, will not deny *Lucius* to be a King, and the firſt Chriſtian King of the *Britaines*, who, and whoſe ſubjects were baptiſed about *anno* 176. by *Fugatius* and *Damianus*, ſent to this end by Pope *Eleutherius*: And ſee *Tacitus Lipſ. pag.* 457. *in vita Agricolæ*, *Ii* (*Britanni ſcilicet*) *his atque talibus invicem inſtincti*, *Voadicâ generis regii fœmina duce* (*neque enim ſexum in imperijs diſcernunt*) *ſumſere univerſi bellum*, *&c.* with theſe and the like ſpeeches, inciting one another, by common conſent they reſolve to armes, under the conduct of *Voadica* a Lady of the blood royal, (for in matter of governing in cheif, they make no diſtinction of ſex.) It is not my purpoſe here to relate a ſeries and Catalogue of all the *Britiſh* Kings to the *Saxon* Monarchs, nor of the *Saxon* to the *Dane* and *Norman*;

Eſſex and *Middleſex*.

Plat. in vit. S. Eleutherii, p. 21.

I

I deny that in any of theſe times, there was any other Government but Monarchy, (Ariſtocracy or Democracy never) nor was ever any of thoſe Kings choſen by the people.

Here by the way, though I affirm the Government of *England* and *Brittaine* to be Monarchy, yet I do not affirm, that part of this Iſland which is called *England*, was governed by one Monarch only, till King *Atheſtan* reduced it about the yeare 938: nor the whole Iſland under one King, before it was united under *James, anno*, 1602. And this Monarch not a thing in abeiance, an aiery title, but an abſolute, free and independent Monarchy. *Stat.* 24. *H.* 8. *cap.* 12. *It is reſolved and declared, that by ſundry and old antick Hiſtories and Chronicles, it is manifeſtly declared and expreſſed, that this Realme of* England *is an Empire, and ſo has been accepted in the world.*

Publick Notaries made by the Emperor, claimed *de Jure*, to exerciſe their office here in *England*, but were prohibited, becauſe it was againſt the dignity of a ſupream King; ſee Sir *Ed. Coke, Inſtit.* 4. *fo.* 342. *Omnis ſub rege, & ipſe ſub nullo, ſed tantum ſub Deo*; And *ipſe autem Rex non debet eſſe ſub hominibus, ſed ſub Deo*: And *Rex autem qui vicarius ſummi Regis eſt & ad hoc conſtitutus, ut regnum terrenum & populum domini, & ſuper omnia ſanctum veneretur eccleſiam ejus & regat, ab injurioſis defendat, & maleficos ab ea evellat, & deſtruat, & penitus diſperdat*; *ibid*: Now would I fain know, what higher power can any man upon earth claim, then is here by the Law acknowledged to be in the Kings of *England*.

Nor hath any Subject any property in his eſtate, but what he claims from the King; for all Lands and Tenements in *England*, in the hands of Subjects, are holden mediately or immediately of the King, Sir *Ed. Co. Com. on Lit. fol.* 1. *& Inſt. part.* 4. *pag.* 363, 364. Nor have the Lords and Commons a concurring power with the King in making Statute-Laws; for the King makes the Law, the Lords and Commons conſent, *Co. Lit.* 159. *b.* And what concurring power of Lords and Commons is there in *Magna Charta*, but only, *Henry by the grace of God King of England, &c. We have granted to God, and by this our preſent Charter have confirmed for us and our heirs for ever, &c.* And *Charta de Foreſta* hath nothing which makes it a Law, but, *Edward by the grace of God, &c. We will that all Foreſts &c. Stat. Hiberniæ*, made at *Weſtminſter* 9 *Feb. ann.* 14 *H.* 3. *Henry &c. commands that the Cuſtoms recited in that Statute and uſed in the Realm of England, be proclaimed in Ireland, and ſtraightly kept and obſerved there.* And *Stat. de Anno Biſſextili*, made at *Weſtm. ann* 21 *H.* 3. *ann.* 1236. is, *The King unto his Juſtices of the Bench, greeting.* The Statute entituled, *Aſſiſa panis & cervicia*, is made by the King. The Sratute *de Scaccario*, is nothing but what the King commandeth. And ſo let any man peruſe all the antient Statutes of this Realm, and he ſhall not find any ſo much as Conſent of the Lords and Commons named in the making of them, though it may be it was implied. Nor had the Lords and Commons in the Parliament *Anno* 1641. any more power *de jure*, then their Predeceſſors had before them. And therefore the Common-Law and Statute-Law of this Realm were nothing but the declared Will of the King: Nor hath any City or Borough, &c. any Priviledge, but what they claim and hold immediately from the Kings Grant.

Cuſtoms I take to be thoſe Uſages, which the Kings have permitted to divers of their Subjects, in ſeveral places of this Realm, time out of mind, diſtinct

Sir *Ed. Co. comment. on. Littleton.* 113.

distinct, and not the same with the Common Law. And herein they differ from *Prescription*, because this refers to the person, that to the place: so *Prescription* is, what such an individual Man and his ancestors have done in such a place; and *Custom* is, what divers Men at once have used in such a City, Borough, Mannor or Village.

Add hereunto the *Militia* of the Kingdom, the *Mint*, the power of making War or Peace, which were always in the King, and for the manageing of which, he hath usually taken the Results of his Ordinary Council; and who will deny the Kings of *England* to have been Absolute Soveraigns? What the Government since 1641. hath been, I cannot tell, nor do I care: If you believe the *Instrument*, it will tell you, *It is in One Person, and the Freeborn People of this Nation*; so in Two, and divided. But who are the *Freeborn People of this Nation?* Every man hath as much right to this Freedom, as another; here is no Vassalage, no *Civitate donatus*, in one more then another; so here all are Governors. Now Government being *ad aliquid*, in the predicament of relation, This *One Person* and *Freeborn People* must forgive me if I do not understand it.

Democracy the worst of Governments.

11. Now if *Monarchy* be the best Government, then *Democracy* is the worst, because most different from it. He that will look further into the inconveniences of Popular Government, let him read *Hobbs de Cive, cap.* 10.

The woful estate of men in Aristocracies.

12. The woes pronounced by God to that Kingdom *whose King is a Child*, Pro. 8. 15, 16. *Isa.* 3. 4. are as much or more to be feared in an *Aristocracy*. For why may not Great men as well agree where the King is a Child, as where there is no King at all? If any of these Governments be monstrous and usurped, This, and *Democracy* are; for God never instituted any such, nor ever commanded any obedience to either: nor was there ever any but originally were introduced by unjust violence and usurpation. It is therefore just with God that they who would not be content to be governed and protected by his Ordinance, should be perpetually obnoxious to Seditions, Conspiracies, and liable to serve many Masters, and always liable to pay Soldiers wages to force them to perpetual slavery and poverty. Under bad Kings, innocent Subjects are protected from the Ambitious; and their Tyranny extends usually to Courtiers, and those who would unjustly usurp dominion over their Fellow-subjects: Whereas bad Governors in States and Popular Governments, bring unavoidably confusion and ruine upon the Governed in general.

Object. I do expect to have the State of *Venice* opposed to this assertion of all Democratical and Aristocratical Governments being originally usurped.

Sol. But if it be true (as we shall hereafter demonstrate) that subjection of Subjects to rightful Princes does depend upon higher then any humane or voluntary causes; And therefore it was truly resolved by all the Judges of *England*, That Natural Allegiance is not circumscribed to any place: Then (although the Empire was much rent with divisions) could not the *Venetians*, although driven by the fury of *Attila's* excursions, into those Isles of the Adriatique sea, where *Venice* now stands, for their preservation, free them from their obedience and subjection due to *Valentinian*; nor, without usurpation and wrong to him, could they erect themselves into an Aristocracy.

Calvins case, tit. 4. *page* 7.

13. Per-

13. Perfection consists in Integrals; and where any thing is not made up of all the parts of it, there that thing is deficient and imperfect: But the Government of Aristocracy and of Democracy does not consist of the whole part of the Men governing, but of the major part: The Governments therefore of Aristocracies and Democracies are deficient and imperfect Governments. Aristocracy and Democracy are imperfect Governments.

Socrates asks *Euthyphro*, Whether in every action, one and the same thing be the same thing to it self, pious or holy? and in like manner, Whether an impious or profane thing, plainly contrary to an holy thing? *Euthyphro* assents to it. *Socrates* bids *Euthy.* define what is holy, what profane: *Euthy.* defines *holy*, to be the doing the will of the Gods; and *profane*, to do contrary to the will of the Gods. *Socrates* asks *Euthy.* Whether the Gods had all the same will? and whether it were true which the Poets, Painters, and Preachers report of the Gods, that there was war, great counterfeiting, and fights among the Gods? *Euthy.* confesses it, and more marvellous things which the common people were ignorant of. *Socrates* asks *Euthy.* If a holy thing be grateful to God, and a holy man be acceptable to God, whether holy and profane can be the same thing? or whether they be not plainly contrary to one another? *Euthy.* confesses it. *Socrates* asks *Euthy.* if the controversies, wars, and dissentions among the Gods, were concerning things just and unjust, good and bad, honest and dishonest? *Euthy.* confesseth it. *Socrates* asks *Euthy.* Whether in all matters of controversie, men must not have recourse to some certain Rule, to which with an indifferent mind they must submit? *Euthy.* confesseth. *Socrates* asks *Euthy.* Whether they might not have recourse to the will of the Gods, whether that thing and controversie between them were good or bad, just or unjust? *Euthy.* assents. *Socrates* asks *Euthy.* Since that the dissentions of the Gods were concerning things just and unjust, whether this thing might not put them into dissentions and wars? *Euthy.* confesseth. *Socrates* asks *Euthy.* Whether the Gods do think other things just and unjust, honest and dishonest, good or bad? and that they could not be at strife, unless about these things? *Euthy.* assents they could not. *Socrates* asks, if the Gods love things good and just, and hate and persecute those things contrary to them? *Euthy.* grants. *Socrates* asks, Whether some of the Gods might not think the same things just, others unjust; and while they dissent about those things, stir up sedition and wars among themselves? *Euthy.* confesseth. The same things therefore the Gods both love and hate; and those things which are envied by some, are grateful to other of the Gods, and the same things sacred, and prophane; which *Euthy.* could not deny. Such is the condition of men in Aristocracies and Democracies, that while they seek to please one part of their Governors, they displease another. Nor can men in such a condition be secure, that obeying one part, they shall displease another part, and so excite them to endless debates and war. The sad and woful truth of these things, this poor Nation hath of late made sufficient trial of. *Annot. Plato. Euthyphro.*

14. There is nothing in this world, but is subject to humane frailty; no Roses without prickles. And though Monarchy be the best of Governments, yet so long as it is exercised by Men, and since Kings are but Men, and therefore subject to humane frailty, it cannot be expected that all Kings should so perfectly exercise their authority, but that some mischiefs will happen The incommodities of Monarchy.

happen from them: Nor indeed can it be imagined but ſome miſchiefs will happen to particular men, from the beſt of Humane Laws; yet without Humane Laws and Government, can never the inconvenience of Tumults and Confuſions be avoided.

The Objections againſt Monarchy, are uſually,

First, That in the infancie of a King, all things are ſubject to confuſion and alteration. *It is true; and therefore God pronounceth ſuch an eſtate woful: Yet is ſuch an eſtate no worſe then Ariſtocracy, which is better then Democracy.* Prov. 8. 16.

Secondly, That ſubſequent Kings do not deſire to rule by the Laws made by their Anceſtors, but by Laws made by themſelves; and ſo their Subjects are always in an unſetled condition, and ſubject to alterations. *The Laws of the* Medes *and* Perſians *were unalterable, yet the Government was always Monarchy. And let a man look into all places of the known world, where the Government is Hereditary Monarchy, if the Government be not from long received and eſtabliſhed Laws, which is the Princes greateſt ſecurity; and therefore in reaſon ought rather to ſuffer ſome miſchief from them, then venture an inconvenience by altering them: Whereas in the other Governments, where Factions and mens Intereſts bear ſo great a ſway, they are daily ſubject to mutilation and alteration. And let any man ſee how unlike all the Parliaments ſince 1640. have been in their Intereſts and Factions; and all of them would have innovated all the eſtabliſhed Laws of this Nation, if they could have agreed upon any thing inſtead of them.*

Thirdly, That it is an unreaſonable thing, Mens lives and eſtates ſhould terminate in the Will of one Man, and it may be this Man a wicked and tyrannous Man. *But if it be neceſſary that theſe things muſt depend upon ſome Humane cauſe, how much better is it for Men to be ſubject to one Man then many?* Nor can any thing be objected againſt Monarchy, but will be of more force againſt either of the other Governments.

It is abhorrent and impoſſible to frame a Commonwealth in *England* from the example of the *Romans* and *Athenians*.

15. Thoſe Men who imagine to frame a Democracy or Commonwealth here in *England*, from the example of the *Romans* or *Athenians*, &c. let them conſider two things. First, That by a general abhorrence of Mankind, Democracy hath been exploded upon the face of the Earth for above 1700 years, (if the Cantons of *Switzerland* be not Democratical, who have almoſt ever ſince their Rebellion againſt *Wenceſlaus* about the year 1400. (when they firſt formed themſelves into a Democracy) continued mercenary Mankillers to the Intereſts of the Pope, and the Kings of *France* and *Spain*.) Secondly, The ſtate of the Inhabitants of *Rome* and *Athens*, were the People, who were *Civitate donati*, Libertines, or abſolute Slaves; but with us the Caſe is quite another thing; for, every Man hath as much right to his Freedom as another, by birth. It is therefore meer folly, from Cauſes ſo unlike, to produce like things. Beſides, if a man conſiders the condition of this Nation ever ſince Monarchy was rejected, that in leſs then the revolution of Twenty years, the Publique Charge hath been twenty times more then in Five hundred years before; Not only the Nobility and Gentry in general ſequeſtred and undone, but the Publique Revenues both of Church and Crown waſted and ſold, all Veneration of Divine and Humane Laws loſt and neglected, all Commerce with Foreign Nations interrupted, and the Nation hated and deſpiſed by Foreigners; the moſt Renowned places, which the Piety of our Anceſtors founded

for

for the Worſhip and Service of God, prophaned and made Stables for Horſes; The Governors, inſtead of minding the Publick good, intending only by all unjuſt means to prefer themſelves and creatures; And at this day a greater Debt upon the Nation, then our Parliaments for 400 years have given our Kings, (except the ſacrilegious gifts of Church-lands) and the Nation ſtill degenerating into worſe; ſure no ſober man would be in love with Commonwealths.

CHAP. V.

Of Sedition.

Of Sedition.

1. BEfore we proceed to the Fathers, Husbands, and Maſters Power, it will not be amiſs to take a ſhort view of Sedition, and what diſpoſes men to it of themſelves, and how they are diſpoſed to it by them who are in ſupreame Authority. Sedition properly ſignifies a going apart, or aſunder: As the ſubmitting and uniting of Subjects to their lawful head, cauſes peace and quiet, from whence follows eaſe and plenty; ſo ſedition cauſes diſcord and War, which unleſs timely ſuppreſſed, either ends in Tyranny, that is, by ſetting up one or more of the ſeditious, in place of him who by right ought to command, or opens a gap to be overwhelmed of forrain powers. See *Hobbs de Cive, cap.* 12.

Seditio, quid.

The deſire of judgment diſpoſes men to ſedition.

2. This is the moſt antient ſin, the firſt of our firſt parents, the deſire of being like to God, judging good and evill: *Therefore God ſent him out of the garden to till the ground, Gen.*3. 22,23. Abſoloms *ambition was, that he might judge the land, 2 Sam.* 15. 4. which only did belong to his Father; and by the Firſt propoſition of *cap.* 3. *lib.* 2. all judgment belongs to him who is ſupream; The opinion therefore, that judgment of good and bad belongs to the Subjects in general, or to any in particular, is a ſeditious opinion. It is impoſſible that judgment removed from the head, ſhould abide any where: for the unreaſonable appetite of men doth deem things good or bad, not as they are in themſelves, but as they appear profitable, or not, to them; from whence it comes to paſs, that the ſame action is praiſed by one man as virtuous, and by another is blamed as vitious; neither can there be any remedy for this thing, but the ſubmiſſion of every mans judgment, to the judgment of another. Beſides judgment of good and evil, is to put an end to all difference; and what end can there be of difference, when as either every man may judge alike, or no man can tell who ſhall be Judge?

Diſobedience to Lawes.

3. It was *Adams* anſwer to God, when he asked him whether he had eaten of the tree whereof he commanded him not to eat; *The woman which thou gaveſt me, gave me of the tree, and I did eat.* It is uſual with ſeditious men when they are diſpoſed to ſedition, to oppoſe the laws of God againſt humane, and plead conſcience, becauſe through their ſtubbornneſs they will not receive humane laws. What follows? No private man but may aſſume to himſelf as much liberty as another, and every man will deſire to ſeem as tender-conſcienced as another; ſo that, *In nomine Domini incipit omne malum*: Men pretending conſcience, deſtroy all ſociety and govern-

ment, It is therefore a seditious opinion to affirm, that subjects sin obeying their Soveraigns in all things not contradicting Faith, Religion, or the Law of Nature.

Ambition. 4. When men abound with wealth and ease, partly by their own natural affection, and excited by their flatterers, deem themselves slighted if they have not honor and power in their conceipt proportionable to their wealth, no wonder if they study novelty to acquire popular affection, in lieu of what they call Court-favor.

Envy. 5. When men are over-conceited of their parts and abilities, and because they are not preferred in Church or State, according to their desires, use their abilities to promove the affections of a faction contrary to what is Trump, (as they call it) which, where liberty may be not only disputed, but opposed to Prerogative, shall never be wanting; a small deale of wisdome serves the turn, a little eloquence is enough, if they can use some small flourish of words (no matter whether they be to the purpose or not) at Markets, Sermons, Bull-baitings, &c. and then tell the auditory, that this thing done in State is against law, and that thing done in Church is against conscience; no minding of what is their duty, all their talk is judging their superiors; and this buzzed into the heads of light and inconstant men, begets all the talk of the Country, and is beleeved with the same Faith they beleeve the Gospel or their Creed!; and if Authority shall endeavor to suppress the further growth of such seditious practice, by punishing the Authors, it will be deemed by the well-affected, no less then an invasion upon the liberty of the subject, and persecution of the Gospel.

That supream Princes are obliged by their own Laws, is a seditious opinion. 6. If *Lex lata* had any obligation upon the Legislator, then were the Creature subject to the Creator, and the Father obliged to what he commands his Son, and the Master to what he bids his Servant, and God to what he commands Man, which is absurd, nor is it less absurd that the supreme power should be obliged by the Laws given to Subjects. They who assert that supream Princes are obliged by their own Laws, should do well to make their Children shooes and cloathes, to serve them when they are men; For as mens vices and manners vary, so must humane Laws. But men neither consider themselves nor Princes, in asserting this: For Princes are in a more vile condition then the pooreſt man, not to have the freedom of will; and they themselves are left to the rigor of the Law without hope of mercy. How can any man accuse *Hen.* 7. for his rigid exacting the penal laws; when by this opinion he had not power to remit any thing of them? And why do men tax *H.* 8. for a cruel man and a Tyrant, because he put so many men to death for not acknowledging his headship of the Church, the not subscribing the six Articles, *&c.* if he were obliged by his own Laws? Nay, they do not allow Queen *Mary* a power to releive any Protestant, given over to the secular power by Bishop *Bonner*. From this very opinion sprang all the miseries for these last 18 years; *Scots* had liberty to invade us, but the King was obliged by his own Laws not to relieve his oppressed and afflicted Subjects. This was that which gave the *Turks* first entrance into Christendom; for while the wrangling *Grecians* not content with their rightful Emperors, place usurpers in their rooms, who to gratifie them again, and to strengthen themselves against the right heirs, care not what they grant their well-affected Subjects, which so weakned the power of the *Grecians*, that contesting with their Emperors about their liberties and priviledges, which

their

their usurping Emperors had granted them, and neglecting their common (and at first despised) enemies the *Turks*, they were all overcome in a short time by a handful of men obedient to their Prince. And what private man can assume to himself the knowledge of good and evil, that is, ascribe to himself a power over his Superior, by judging whether he hath transgressed the Law, or not? And let any man shew that ever our Parliaments, as they call themselves, Councils of State or Safety, were ever obliged by their own Laws, and I will submit that rightful Princes are obliged by their own Laws.

That supreme power may be moderated.

7. There is nothing more to be wished in this world, then that the Will of them which command, might be moderated and restrained to Reason; as that Kings, Fathers and Masters should never exact any thing of their Subjects, Children and Servants, but what were reasonable. But it is impossible that the Supreme power can be moderated, unless it be divided, or subject to the Moderators: It is therefore a seditious opinion, That Supreme power may be moderated.

That any man has any thing proper against the Supreme power.

8. All right that any Creature hath to any thing, is either from the Law of Nature, or from some Humane Law; but no Subject can have *Prædium directum cujus nullus author est nisi Deus*, Sir *E. Co. Com. Lit. pag. 1. b. Qui dominium non habet, dominus non est.* And he that holds of none, is Lord of all; which no Subject can be. It is therefore a seditious opinion, That any Subject hath any thing proper against his Soveraign.

That the people may reform, where Princes will not.

9. There has not any thing for more then this last Century, caused so much dissention and bloodshed among Christians (to the shame of Christianity) as the specious pretence of Reformation. The *Turk*, either restrained by God, or not willing to be an Enemy to Mankind, hath been only a spectator, not actor in this Tragedy. *The end doth sanctifie the means*, was a doctrine generally received among these Reformers; if the end were Reformation, it was no matter by what means it was brought to pass. Hence it was, that every where in the Western world, men disposed to sedition, made Reformation their pretence: No Prince must use his power to restrain them; if he do, *Calvin* gives them a lesson, *Abdicant se potestate terreni Principes, dum insurgunt contra Deum; immo indigni sunt qui censeantur in hominum numero; potius ergo oportet conspuere in illorum capita, quam illis parere, ubi sic proterviunt ut velint spoliare Deum jure suo:* Earthly Princes do divest themselves of power, when they set themselves against God; yea, they are not worthy to be accounted in the number of men: Men ought therefore rather to spit upon their heads, then obey them, where they deal so saucily, as if they would spoil God by their right. And *Luther*; *Ab omnibus hominum legibus exempti sumus, libertate nobis Christiana per baptismum donata:* We are freed from all Laws of Men, liberty being given us by Baptism. *Et scio nullam rempublicam feliciter legibus administrari*; I know there is no Commonwealth happily governed by Laws. And, *Turpe enim est & iniquiter servile, Christianum hominem, qui liber est, aliis quam cœlestibus & divinis subjectum esse legibus:* It is a filthy and unjust servile thing, that a Christian man which is free, should be subject to any but Heavenly and Divine laws. And whether these mens followers have not well practised their Lectures, whersoever they have been tolerated either in *Germany*, *Bohemia*, *Austria* Upper and Lower, *Hungaria*, *Transilvania*, *Sweden*, *France*, *England*, *Scotland*, *Low-Countries*, *Geneva*, &c. let any

Comment. on Dan. 6. 21.

Lib. de captiv Babil. de baptismo.

Cap. de matrimonio.

Cap. de sacr. ord.

man who hath read the Combuſtions of Chriſtendom, judge; and the Anabaptiſts and all other Sects may from their principles juſtifie all their actions.

That temporal good follows in order to ſpiritual.

10. There is nothing more manifeſtly commanded by God in the Old and New Teſtament, then obedience to Temporal Princes; yet there is nothing more endeavored (to the ſhame of Chriſtians) then by pretence of Religion, to uſher in Rebellion. By this opinion are all Chriſtian Princes made in a worſe condition then Infidel or Mahumetan, and ſubject to the Spiritual powers in their Temporal juriſdiction. But, *mutato nomine*, a new generation of men have ſprung up, and changed---*Bonum temporale ſequitur in ordine ad bonum ſpirituale*, into---*The wicked have no right to their goods*; and, *It is lawful for the children of Iſrael to rob the Egyptians*.

Rex major ſingulis, &c. is a ſeditious opinion.

11. *The King is greater then the Singulars, and leſs then all his Subjects*; is a Fools bolt ſhot at ſuch random, that it is not worth the meaſuring whether it be near the mark, or not? For not only all Subjects owe their obedience, as much as every one; but never was any Prince univerſally rejected or diſobeyed by his Subjects.

That Subjects may upon any prerence levy war without conſent of the Supreme power, a ſeditious opinion. See *Calvcaſe* 11, 12.

12. See Sir *Ed. Coke, 3. par. Inſt. pag. 9. Ou ſi homme leva guerre encontre noſtre Seignieur le Roy*? This was High Treaſon by the Common Law; for no Subject can levy War within the Realm, without authority from the King, for to him it only belongeth. And a little after; If any levy War to expulſe ſtrangers, to deliver men out of priſons, to remove Councellors, or any other end pretending Reformation of their own heads, without warrant, this is a levying of War againſt the King, becauſe they take upon them the Royal authority, which is againſt the King.

Negligence in the worſhip of God.

13. Let no Prince ever hope for obedience from his Subjects, who takes no care that God be duly ſerved by them? For, where the fear of God is not, men will not honor their King, but are diſpoſed to ſedition.

Contempt of the Regal power, diſpoſes men to ſedition.

14. Honor is nothing elſe, then the eſtimation of anothers power *viz.* That a man hath power to protect, reward, and puniſh another. And prudent Princes ought ſo to maintain the reputation of this in their Subjects, that it may be received and believed of all: For beſides that ill men will, where there is no fear of puniſhment, become more licentious; generally all men ambitiouſly (where they are not reſtrained by fear) deſire to inſult over their Superiors. *Æſop* gives an Item of this laſt, in the Fable of the Logg which *Jupiter* gave the Frogs for their King; when they became fearleſs of it, every one jumped inſultingly upon it: And examples of the former are clearly ſeen in men, who condemned for offences to death, they penitently acknowledge their faults, and deſire forgiveneſs of that Power that puts them to death; whereas ſcarce any offender fearleſs of puniſhment, did ever ſubmit and ask forgiveneſs for it. Princes therefore ought principally to take care, how either by their vices, remiſs Government, or otherwiſe, they make their perſons or power contemptible; for when power is contemptible, the exerciſe of it is never permanent.

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If Laws be not carefully executed.

16. It is not only the office of a Prince, that good Laws be made, but that they be carefully put in execution. There is no man who does not will and desire to be happy; but few men who are daily sollicitous and industrious to attain to happiness. It is the part of foolish men, only to will and wish; but the part of prudent men, to do wisely. A man shall see it in a family, where the Master only commands, and never looks to the doing, that in a short time, though he commands much, he will have little performed: And where Subjects have gotten a licentious habit of neglecting or transgressing Laws, it will prove a hard thing to reclaim them, whereas they might have been easily preserved in their obedience by careful execution of the Laws.

Alterations of Laws.

17. There is nothing more dangerous in Church or State, then Innovation: It is therefore the most secure way of governing (when mens manners and vices do not require new Laws) by the antient and received Laws of a Nation: This will secure the Prince from the imputation of Tyranny; he may better hope to preserve a strong house built upon a sure foundation, then by destroying it, to undertake to build another, which he either knows not how to finish, or having built it, cannot hope it will be better then the other, or cannot tell whether it will be of any continuance, but falling will overwhelm him in the ruine of it. Besides, the Subjects from the example of their Prince will become studious of innovation, and censure whatsoever Laws he prescribes in lieu of the old ones: Those he gives, if they please one, will displease another; it will be the only talk of the City, Country, and Market: If he punish any opposer, (for it is not possible but disadvantage will be to many, and the loser will speak) he shall by all his faction be cried up for a Martyr and Patriot of his Country and Laws: It will make Subjects diffident of their condition, and fearful that having Property by the old Laws, they shall lose all by new ones. Yet there is nothing in this world can secure men, and make their condition permanent: For, what is usually objected by seditious men against their Prince, *viz.* the invading and not suffering freeborn Subjects to have the benefit of their antient Laws and Customs, was imputed a crime to our late King, who was persecuted by his own Subjects, because he adhered to the known and received Laws of the Land; for, after the year 1642. there was not any Petition presented to the King by one or both Houses of Parliament, but was against the established Laws of this Nation. But no question, it was not the Kings adherence to the Laws, but the iniquity of the Times, which brought so great a calamity upon himself, his Queen and Posterity.

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18. If

Resuming any thing granted to Subjects.

18. If there be any happiness in this world or the world to come, which may be hoped for by any man, no question but it is to be attained by Justice and Obedience; and Justice and Obedience is, in receiving and doing the Commands of our Superiors; nor can any one be a just or obedient man in any thing, wherein he makes not his Superior (that is, God, Church, King, Father, Mother, or Master) the reason or rule of it. Yet there is nothing more desired and pretended by ignorant and seditious men, then liberty: And wherein do they place this liberty, but in weakening the power of him to whom they owe their subjection? And the more any Prince grants to his Subjects, the more liberty the Subjects ascribe to themselves, and the less power to their Soveraign; and will rather be devoured by forein Enemies, then endure that their true Prince shall infringe their liberties by resuming any thing granted them; although it be for their necessary defence and preservation.

Granting priviledges to particular places, causes sedition.

19. Government is endangered either by intestine broils which are raised by factious and seditious men, or forein war; and Princes ought to be more careful to preserve their Subjects in general from intestine then forein war. For besides that civil wars are more dangerous to the Crown then forein, so intestine wars always end in loss of subjects in general, whereas by forein wars much benefit may arise to King and subjects. And there is nothing so much desired, and that can so much conduce to the suppression of factions and seditions, as the equal and due administration of the same Laws to Subjects in general. But in vain shall Princes endeavor to suppress factions and seditions, when they make them, by making so many Factions, as they make Corporations: For who does not see what an antipathy there is between the Country-Justices, and the Magistrates (as they call them) of Corporations, where they agree not *in aliquo tertio*, that is, in some mischief, plainly in advantage of the Corporation? And let any man shew one Corporation of an hundred, which hath not used the Priviledges granted them by Princes, to the dissolving of that Power which granted them their Priviledges. *Ecclesiasticus* says, *That without Handicrafts men and Tradesmen a City cannot be inhabited; but they shall never sit in the place of Judicature:* And indeed, what thing can there be more abhorrent, then that men, who by fraud and unjust gains have gotten much money, should therefore sit in Judicature, and judge and condemn poor men to death for small offences in comparison of theirs, and different only in this, that the one committed their offences fraudulently and covertly, and the other forcibly and violently? *Cap.* 38. 32, 33.

Long peace disposeth men to sedition.

20. As in mens natural bodies, well-ordered action is much conducing to the preservation of health, and overmuch ease and sloth the original of many distempers, which cannot be recovered without bloodletting and physick: so in the bodies of Kingdoms and Empires, a well-ordered *Militia* constantly kept in action, conduceth much to the preservation of a Nation; whereas sloth, and neglecting military discipline, makes a Nation not only unfit and unweildy to defend it self against its outward Enemies, but also contracts infinite Civil distempers within it self, all tending to a Civil war. Well therefore might *Cato Major* in his great wisdom cry out in open Senate, That soldiers and men of war were to be still busied in arms far from home; for that in so doing all should go well with the State, and the glory thereof increase. And the *Romans* always judged an external war the most requisite

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and neceſſary remedy to prevent an inteſtine. And no doubt but this is, at this day, the Politick reaſon of the long wars which *France* makes againſt *Spain*, rather then any fear or hatred of the Nations one to another. It is therefore a miſerable condition in which Princes are (without Gods great and ſpecial favor to them) that either they muſt maintain a forein war, and ſo become accountable to God for all the blood which ſhall be ſpilt, if unjuſtly undertaken; or elſe by long peace and eaſe diſpoſe their own ſubjects to the ruining and deſtroying of one another. It is ſaid of Q. *Eliz.* that ſhe would never conſent to the total ſubverſion of *Dunkirk*, leſt that by a careleſs neglect of providing for themſelves, the Seamen ſhould be forgetful, and unfitting for Naval warfare. And *Scipio African* would not give his conſent to the utter ſubverſion of *Carthage*, leſt that the *Romans* (*Carthage* being deſtroyed) ſhould not find another Nation which might keep the *Roman* Valor exerciſed, and ſo by its own unactivity and ſloth, it ſhould degenerate and be diſſolved. Beſides the excellencies of Military diſcipline, (not but that any thing may be abuſed) by which Nations are protected from Foreign enemies; not only Religion, Juſtice, Peace, Learning, &c. are internally preſerved; it alſo makes men induſtrious and active in buſines, valiant in dangers, temperate in their deſires, and to be wary and prudent in their actions. It is indeed an admirable thing to conſider, how the moſt wiſe, greateſt, and beſt God hath attempered all things: Not only that all things are differing, if not contrary to one another, but alſo hath made and placed all Nations ſo enemies one to one another, that he may by the help of one, revenge the injury and injuſtice which is done by another; that ſo from fear of danger, all might be kept within the bounds of their duty. Hence it was that God ſaid, *I will henceforth not caſt out before me one man of the nations which Joſuah left when he died, that through them I may prove Iſrael, whether they will keep the way of the Lord and walk therein, as their forefathers did, or not. And theſe are the nations which the Lord left, that he might prove Iſrael.* See *Bod. de rep lib.* 5. 563. Judg. 2. 21, 22. & 3. 1.

21. There is nothing more eſtabliſheth a Throne than Judgment, (which is giving ſentence according to Law) but he that buyes the place, muſt needs ſell judgment, or elſe he will be a looſer by it. And what can more diſpoſe Subjects to ſeditions, and to ſeek for judgment and right in an extraordinary way, then that they cannot hope for it from corrupt Judges? Well therefore ſaid King *Jugurth* when he departed from *Rome*, *Vade venalis civitas, mox peritura ſi emptorem inveneris.* Beſides, who will fear to violate Laws, and endeavor to raiſe ſedition, if he may hope to buy off his puniſhment, which ſhould deter him from it, by corrupting the Judge? Selling of places of Judicature, cauſeth ſedition.

22. Though no man hath any thing proper againſt him who hath ſupreme power; and although no man can hope to preſerve any thing which he hath, but as he, and what he hath, is ſecured by that Power which gives him property; which Power muſt be preſerved by every mans life and fortune, or elſe no man can hope to enjoy any thing he holds by that Power; and the paying of Taxes, is to maintain others who are to expoſe themſelves and their lives in defence of what he and his fellow-ſubjects enjoy: Yet are none of theſe things conſidered by the greateſt part of men; but as Mr. *Hobbs* obſerves, The raiſing of Taxes makes men fare as thoſe who are in the diſeaſe called *Incubus*, (or as we ſay, ridden with the Night-mare) which riſing from the ſtomach, makes men think they are invaded, oppreſſed Impoſing and raiſing Taxes diſpoſes to ſedition. *Cap* 12. *art.* 8.

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and ſuffocated with great weight; Which thing, they who ſeem to themſelves to be oppreſſed with all the weight of the City, are prone to ſedition; and men declining in their fortunes, will not ſpare (though the fault be in themſelves) to impute their declining condition to the payment of the publick Taxes; nor will avaritious rich men fail to pretend poverty, and ſeek by innovation and ſedition to prevent them.

Paſſionate deſire to puniſh Subjects, eſpecially where many are peccant, moves to ſedition.

23. *Honos eſt in honorante*; Honor is nothing elſe, but the opinion of anothers power, joined with goodneſs: Majeſty does never appear ſo amiable, as when arrayed in Clemencie; whereas he who rigorouſly executes his power, will be hated, and ſervilely feared by them who otherwiſe would honor and willingly obey him. It were the moſt eaſie and natural thing in the world to govern well, if the violent and rigid execution of Laws againſt all offenders, would cure the maladies of State; nay, Subjects ought to be preſerved (though peccant) where the pardoning may appear an act of grace, not remiſneſs, and the example not encourage others to the like offence. Puniſhment ought always to look forward, never backward; that is, Princes in puniſhing ought by the example to deter others from the like offence; not to take pleaſure in puniſhing any who hath offended him. *I will avenge the blood of Jezreel upon the houſe of Jehu, and will cauſe to ceaſe the houſe of Iſrael, ſaith the Lord,* Hoſ. 1. 4. How ſhould God avenge the blood of *Jezreel* upon the houſe of *Jehu*, whenas *Jehu* did nothing but what the Lord commanded him? The reaſon is given, that *Jehu* took pleaſure in executing ſo dreadful a judgment upon his Maſters houſe. Weak and indiſpoſed bodies are killed, never cured by violent phyſick; nor will Patients ever ſeek to Phyſitians, who they fear will rather kill than cure them. Princes who by violent and cruel ways do govern, ſuppreſs, yet nouriſh a fire, which breaking out will hardly be quenched: Yet it is ſometime the fate (I dare not think through the fault) of moſt ſerene and clement Princes, to ſuffer death and martyrdom from the ſenſleſs rage and fury of their ſeditious Subjects. If then the infite piety of the moſt devout, religious, and beſt of Princes, adorned with all the excelling virtues of Patience, Temperance, Chaſtity, Juſtice, Mercy, love and tender care of his Subjects, Magnanimity in Adverſity, Moderation in Proſperity, could not ſecure Innocent Majeſty from the violence of unnatural Subjects; ſure, Peace and happineſs may by other men be endeavored and prayed for in the next World, but it can ſcarcely be hoped for in this.

Annot.

If there were neither Heaven nor Hell, no hope of bliſs, or fear of puniſhment hereafter; yet ſure, ſo much Morality ſhould be harbored in humane breaſts, as not cauſeleſly to offer violence or injury to them of their own kind: How much more unnatural, ingrateful, and inhumane then is it for Subjects, againſt all Oaths of faith and allegiance, not only not to make any reſtitution of thoſe things which they hold of their Prince, before they attempt any thing againſt him, but alſo to imploy them all to the deſtruction of that Perſon and Power, by whoſe grace and favor they enjoyed them. And if that Monarchy be Tyranny, as Libertines affirm, and that all power is from the People; then ought they not in reaſon to condemn it in the cauſe, and allow it in the effect, and rob the People of ſo great a part of their original right, by retaining their Eſtates which were all mediately or immediately holden of the Crown. If Regal power be unjuſt and uſurped in the cauſe, then cannot any act of it be juſt or legal; and ſo by conſequence

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all these famous Assertors of Liberty do unjustly and illegally hold their Estates, which are nothing but Concessions originally from the Crown, and do unjustly usurp them from the People, from whom originally all power is derived. And where these men complain so much of unjust, illegal, and arbitrary power of a Prince; let any man shew where ever, after they had usurped Regal power, they made Justice, Law, Equity or Reason, but only their Rage and Will, the rule of their Actions and Laws.

By what degrees, and from what causes, this Nation became miserable.

24. It is a vain thing to expect that Subjects will long be governed in peace, where either they are not governed by force of Arms, as the *Turks*, *English*, *Scots*, *Irish*, and *Low-Dutch* are; or where the Subjects have not that estimation of their Prince, that by his power they are protected in their lives and estates, and from him do claim whatsoever may be called theirs; and do not unite themselves in a Religious Unity (which is the chiefest bond of Peace) or Publique Form and Communion of serving God: For, both in Church and State, there must be some one thing to which all Subjects must indifferently submit themselves, or it is impossible there should be any decision of their differences in either. Where men therefore will not indifferently submit themselves to the just and legal established Government in Church and State, there necessarily must men (whatever they pretend or hope for) be forcibly governed by Arms, or they will infinitely destroy one another. It is true indeed, that *Henry* the Eighth, (who being of all mortal men the most unfit for a Churchman, ascribed to himself the Headship of the Church, and) having converted to his own use so great a part of the Church-lands, the veneration which men retained of the Church, became vile and contemptible, and the Crown lost the chief support thereby. The Crown, thus left almost without support, it descended to a Child, in whose Aristocratical reign, not only the Chantries and divers other Religious Houses were given by the Parliament and Bishops to the King, but almost all things Sacred became a prey to the ravenous Courtiers. Queen *Mary* endeavored to have had restored all to the Church again, but the lands being incorporated into particular mens estates, it was not in her power. After her, Queen *Elizabeth* by Act of Parliament so stopt the precipice of things, that what was left in the Church, might not be aliened or made worse by the Possessor; yet so, that she left a gap open for herself and her Favorites to prey upon it: which was after shut by King *James*, and with great care secured by King *Charls*. All this while grew up a Faction in Church and State, which became the ruine of both: For not only in the Church, the Publique Liturgy, Communion, or Religion, was vilified and defamed; but the Governors reviled with all opprobrious names of *Tyrannical*, *Antichristian*, *&c.* It is true, the Majesty of the King was not so openly reviled, yet was it insensibly daily undermined by them; in which they were much assisted by a company of half-headed Lawyers, who in all Assemblies distilled this doctrine into ignorant men, *That the Law was above the King; and that they had Property against him in their estates and goods.* Whereby not only Citizens and Great places became generally inclined to this new doctrine of the Teachers and Lawyers; but the Country-Gentleman thought himself independent from the King both in his life and estate; the Yeoman cared not for the Gentleman, and as little regarded the King; so that the veneration of the Royal Name became every day more con-

temptible and despised; all honor and reverence due to the King & Church, was converted unto these Patriots of their Countries Liberty, and New Lights: Nor could the Church relieve the Crown (although the Governors were well-affected towards it) being by all the Faction more hated, than the King became despised; until in the end the chief Governors both of Church and State not only became Victims to the rage and lust of seditious men, but the Revenues of both a prey to their avarice. And now what is left for this miserable Nation to expect (having forfeited all Piety and Allegiance to Gods Church and his Anointed) but after all this consumption of the Blood, and Publique and Private Revenue of the Nation, and having lost all Reputation and Commerce abroad, for the future to be *Turk*-like governed by armed and hungry Soldiers, without any probable hope of Redemption.

Object. It may be it will be here objected, That though poor and contemptible Princes be rarely long obeyed, especially where their Subjects are opulent; yet had the Church never so great veneration, both for power and piety, as when in the Primitive times it was poor; whereas afterward, when it became rich and mighty, it did degenerate into many vices and heresies, and lost much of estimation and piety which it had in its poverty.

Answ. I grant, that God did by his grace and power originally by a company of poor men and Fishermen, against all the greatness of worldly power, miraculously plant a Church; and that those poor men sent by God, were supernaturally inspired by his grace, (which, not their poverty, was the cause of their piety and sanctity, and that they were so highly honored by primitive Christians:) yet sure, when God hath supernaturally planted his Church, it cannot be in reason expected he should preserve it always by miracle: And sure those are very ungrateful men, not to contribute ordinary means, for the preservation of what God hath extraordinarily planted: Nor is there any thing more vain, then to imagine that men are better, for being poor; or that according to the ordinary course of things, they will not be by men in general esteemed vile and contemptible, who are so.

Juvenal. *Nil habet infelix paupertas durius in se,*
Quam quod ridiculos homines facit.

Chap.

CHAP. VI.

Of the Fathers power.

Introduction.

1. *UNumquodque resolvitur in id, ex quo componitur; Dust shall return to the earth as it was, and the Spirit to God who gave it, Eccle.* 12. 7. It is not the good will and pleasure of the All-prepotent God, that only the individuals of one age, should see the greatness of his Majesty and power; therefore he was pleased to create man as well as other Creatures in this inferior orbe, in a * mortal state; yet he endewed him *generativa facultate*, that though he does dye in his person, yet he should live in his posterity, and *as one generation passeth away, so another commeth, but the earth abideth for ever. Eccle.* 1. 4.

* If *Adam* had not been created in a Moral State, the Sacrament of the Tree of life had been a vain institution.

The power of Parents alike over their Children.

2. There is nothing more evident, then that in perfect Creatures (of which man is the most perfect) that God is the prime and efficient cause, or God working by naturall causes, the Sun is the efficient cause, and Male and Female the Instrumental. *Sol per hominem generat hominem.* See *Harvey de generatione Animalium Cap.* 33. Man and Woman therefore being the means whereby God does renew the species of Mankind, and all Creatures having power over themselves in all things, wherein they are not restrained by some natural or humane Law, and every Child being alike part of either of his Parents, the Power of Father and Mother is alike over their Children, and so by consequence the subjection and obedience of every Child is alike due to Father and Mother: And *to honor thy Father and thy Mother*, is the First precept of the second Table of the Decalogue.

Why in Matrimony the power is in the Father.

3. Man and Wife being but one person, and the Husband being the head of the Wife, and the Wife being in the power of the Husband, the Husband hath the power and command as well of the Children as of the Mother; yet the piety and observance of Children to their Mother, is as much due as to their Father.

Grotius his opinion of the Fathers power,

4. *Grotius, cap.* 5. *art.* 2. *de jure belli & pacis*, out of *Arist. pol.* 1. *cap ult. & eth.* 5. *cap.* 10. distinguisheth the Fathers power over Children into three times, *viz.* 1. The time of their imperfect judgment; 2. The time of their perfect judgment; 3. The time when they are out of the Fathers family. In the first, all the actions of the Children are under the command of the Parents: In the second time, whenas judgment is matured by age, and are of the family, they are subject as part of the family: In the third, when he is matured by age, and out of the family, the Son is in all things αὐτεξούσιος of his own right. Yet he says (and truly) *parag.* 5. The Fathers power so follows the Fathers person, that it can never be pulled off nor transferred to any other; for, the Fathers power arising from generation, is due to him by the Law of Nature, and so always the same, if not alienated by the act of God. And therefore * *Quando & Ubi* make no alteration in the Fathers power; for it is the same when the Son is an Infant, and when adult; when he is part of the family, and when not.

* Confuted.

The Father hath power of life and death over his children.

5. Where the Law of Nature gives a power which is not restrained by the Law of Nature, the power is absolute: But it is evident, that the Law of Nature gives Fathers a power over their Children without restriction; Therefore the Fathers power is absolute, and by consequence he hath power of life and death over his Children. See *Bodin. cap.4. pag.21. de rep.* where he says, That the *Persians*, the people of Higher *Asia*, the *Hebrews*, *Romans*, *Celtæ*, *Gaules*, the *West Indians* before the *Spaniard* subdued them, did use this absolute power. And see *pag.23,24.* how he makes all the strife, disorders and contentions among Brethren, their Father living, the wantonness, luxury and riot of youth without fear of punishment, the contempt and scorn of the Fathers person and power, and the decay of the glory and ennobled virtue of the *Romans*, to proceed from the taking away of the Fathers power. Examples of the Fathers power of life and death are hard to find, because it cannot easily be imagined a Father should give judgment upon himself, (his son being part of himself) to cut off any part of himself, which he hopes might by any means be cured: Yet *Quintus Fulvius* did adjudge his son to death, for being of *Catelines* Conspracie: And see *Deut.21.18,19,20,21.* where it is most evident, that the Father hath power of life and death; for the People do but execute the judgment of the Father and Mother, *That such a son is stubborn and rebellious, &c.* The exercise of this power is restrained generally among Christians by positive humane Laws; but from what ground, I cannot tell.

Salust. de conj. Cat.

The Son hath propriety against his Father.

6. The Fathers power arising from generation, and the person of the Son being only generated, the Fathers power can extend no further; and therefore whatsoever the Son does acquire, it is his own, excluding his Father.

Why out of wedlock the Fathers commands are to be preferred before the Mothers.

7. Though the Son out of wedlock is alike subject to both parents, because he is alike part of both; yet if the Father and Mother command contrary things, whereby it becomes impossible for the Son to obey both, there the command of the Father is to be preferred, because of the excellencie of his sex.

Chap. VII.

The Husbands Power.

1. The Husbands power doth not arise *ex concubitu*; for then a man hath power over all the women which he hath, or shall have known, which is absurd; besides, one woman known by several men, should be alike subject to them all, which is impossible.

2. The Husbands power does not arise from his Wifes being a part of his family; for any part of the family, may become no part of the family; but the Wife can never be out of the power of her Husband, therefore the Husbands power does not arise from the Wifes being a part of his family.

3. The Husbands power does not arise from the Wifes submission or subjecting herself to her Husband, for that is but an act of her will, *& unumquodque*

quodque dissolvi potest eo ligamine quo ligatum est; and therefore by an act of her will, she may when she list set herself free.

4. It does not arise from the Husbands accepting of the Wifes will; for that makes the Husband obedient to his Wife; obedience being no other thing, but the accepting the will of another, which is unnatural.

5. The Husbands power does arise from the law of God or Nature, by the conjunction of Man and Wife in wedlock: For these two individual persons, by the law of God, are made one mystical person, of which the Husband is head; and the head is the directive and ruling part of the body, therefore the Husband is the director and ruler of his Wife. From whence the Husbands power doth arise.

But if the Law of Nature, by Marriage, gives the Husband a power or right of command over the Wife; why may it not be, that God by the Civil pact might give a Prince or Court a right of command over those Men who made it? *Object.*

I answer, That first a Similitude proves nothing. Secondly, The cases are nothing alike: For, Marriage was an institution of God in Paradise; and the power of the Husband over the Wife, being due by the Law of Nature, hath been ever since attributed by Mankind to the Husband; yet so, that after the death of the Husband, the Wife becomes free from such subjection, until by Marriage she again subjects herself. In none of these respects does this hold in the Civil pact; for no such thing was ever instituted by God, nor any such thing ever constituted or done by Man, but only a *Chimera* invented by capricious men, to palliate sedition. Nor did ever any man become free from subjection to Supreme powers, by the death of him or them to whom they made their subjection by virtue of the Civil pact: Nor was it ever known in the world, that Men were free before they made their Civil pact, as Women are before they marry. *Answ.*

6. God gives a power to the Husband without restriction, *viz. Thy desire shall be to thy husband, and he shall rule over thee, Gen.* 3. 16. And therefore the Husbands power over the wife is without restriction, and by consequence the Husband hath power over the life of his Wife. Antiently among the *Gaules*, this power was not restrained. The *Romilian* Law restrained the Husbands power to put his Wife to death, for four causes only. This power was used by the *West-Indians*, before they were subdued by the *Spaniard*; and is generally among the Idolaters and *Mahumetans*. But the exercise of the Fathers and Husbands power of life and death over their Children and Wives, is restrained not by any law of God (that I know of) but by the Temporal laws; and yet no wrong done to the Fathers or Husbands neither: For, though their Children and Wives be in their power by the law of Nature, yet by the law of Nature are they in the power of their Soveraign, and subject unto him: And though the Fathers and Husbands power be from the law of Nature, yet the exercise of it is humane, politick, and voluntary; and the exercise of all Subjects voluntary actions, may be restrained and determined by him, who hath the supreme power; therefore the Fathers and Husbands exercising their power over their Children and Wives, may be restrained by him who commands by the highest right, which is the King. But supposing the Husbands and Fathers power to be from the law of Nature, and Regal power but a politick and invented thing, and made only by the will of Man; it were then a violence upon the law of Nature, that any thing which hath no origination but from the inventi- The Husband hath *jus vitæ & necis* over his Wife. *Cæsar lib. 3. de bel. Gal.*

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ons and wills of Men, ſhould reſtrain the exerciſe of that power which God hath given Fathers and Husbands by the law of Nature.

The Wife has nothing proper againſt her Husband.

7. The Husband being the head of the Wife, ſhe is in all reſpects of law deemed *civiliter mortua*, nor can take or purchaſe any thing during the coverture; but whatſoever is given to the Wife, is *ex facto* the Husbands. Yet Marriage being a Sacrament by the inſtitution of our Saviour, and *Epheſ.* 5. 25, 32. a Myſtery of Chriſt and his Church, and ſo the cogniſance thereof due to the Eccleſiaſtical power; the Church, upon the penalty of Eccleſiaſtical cenſure, may compell the Husband to allow his Wife Alimony, if without ſufficient cauſe he ſhall refuſe to cohabit with her.

Poligamy was lawful before our Saviour.

8. If Poligamy had not been lawful before our Saviour Chriſts time, then had our Saviour been illegitimate, being deſcended of *Bathſheba*, when *David* had many other wives. Nor can the argument drawn from the neceſſity of propagating Mankind, take place when *David* reigned; for there never was in ſo ſmall a Continent ſo great a number of people, as the *Iſraelites* were when *David* reigned, as appears by the Number which *Joab* took, and for which *David* was puniſhed with ſo great a peſtilence.

Annot. If it were, before the divine law of our Saviour, lawful every where for Men to have many Wives; I do wonder why Mr. *Hobbs*, *cap.* 17. *art.* 8. *de Cive*, ſays, That our Saviour made no laws but the inſtitution of the Sacraments, which are *Baptiſm* and the *Euchariſt*: And if Matrimony be a Civil inſtitution, as he affirms, then Poligamy is lawful for all Chriſtians who are in ſubjection to the *Turks*, *&c.* where by the Temporal laws it is permitted; and the Kingdom of *Congo* rejected Chriſtianity for no other reaſon, but becauſe they were not allowed plurality of wives, which Mr. *Hobbs* could eaſily have diſpenced with. I do challenge Mr. *Hobbs* to ſhew any one inſtance, where ever in the Chriſtian world (before all things ran riot here in *England* ſince 1642.) the Temporal power took cogniſance of Marriage.

What Matrimony is.

9. Matrimony is the act of two free perſons (*viz.* neither precontracted nor married, nor within the degrees prohibited by God, *Levit.* 18.) of different ſexes, capable of performing the end of marriage, mutually taking one another for Husband and Wife: *I* N. *take thee* D. *to be my wedded Wife*; *I* D. *take thee* N. *to be my wedded Husband*. But this muſt be done publiquely, and Banns of both parts publiquely pronounced three Holidays, or a Licence procured from the Ordinary for diſpenſation, with all the rites and ſolemnities injoined by the Church, or elſe the Church takes no cogniſance of it.

Whether Matrimony be diſſolvible.

Lev 18.

10. Where the Matrimony is ſubſequent to the allegation, there the *Vinculum* is diſſoluble: As if one man marries another mans Wife, or a Husband, his Wife living, marries another; or if the parties contracting or marrying, be within the degrees forbidden by God; or if either party were precontracted, or frigid; theſe neceſſarily preceding the Matrimony, do diſſolve the bond: But where the matter or allegation is ſubſequent to the Matrimony, there the bond of Matrimony cannot be diſſolved, but only a Divorce upon juſt cauſe is grantable to ſeparate the Complainant *à menſa & à thoro*. The reaſon why in this latter caſe the Matrimony cannot be diſſolved, is, becauſe Marriage being an inſtitution of God, it is in the cauſe ſuperior to any Humane law or act, and ſo by conſequence cannot by them be diſſolved. And indeed, in proper ſpeaking, where the Matrimony

is

is subsequent, it is rather not done, then dissolvible, the persons marrying being *personæ incapaces* for such an action.

11. The Holy Ghost, *Ephes.* 5. 25. *&c.* shews the duty of Husbands: And *Cato* (though no lover of women) did think it sacrilege in the Husband to strike his wife, *Plut. vita Caton. cens.* No question, the right and careful education of Children, is the onely means by which Parents may hope to have any comfort of them here or hereafter; for, *Train a child in the way when he is young, and he will not depart from it when he is old,* says the Preacher. Nor can Parents expect to have their Children virtuous, if they be vitious themselves; for, with what face can any Father condemn his Child for any thing which he allows in himself? Besides, there is nothing ill, which naturally Youth doth not more suddenly apprehend then Men; therefore,

The duty of Fathers and Husbands.

Maxima debetur puero reverentia, si quid
Turpe paras.—— *Juveval.*

And ill habits are soon gotten by Children (if they be not carefully observed and restrained) and hardly, if possibly left when they are Men.

CHAP. VIII.

Of Domestical power.

1. THere are three sorts of Families; either by Affinity or Alliance, or by Consanguinity, or a Legal or Houshold-Family. Of such a Family, and of its Cause and Jurisdiction, we shall in this ensuing Chapter treat.

How many sorts of Families there be.

2. A Family is not the cohabitation of divers persons in one house; for then Inmates and Travellers, &c. were subject to the power of the Master and Host. Besides, subjection cannot be, where it depends upon the will of the Subject; when he will, he may choose whether he will obey: But it is evident that Inmates and Travellers may, when they will, cease their subjection by leaving of the house.

A legal family is not the cohabitation of divers persons in the same house.

3. A Family is contained in the mutual offices of commanding and obeying, of several persons under one head, in the same house: And the same head may be of divers Families; as when a Master keeps servants in two or more different houses.

What a legal family is.

4. A Family may consist of *Paterfamilias*, who is Father and Husband, and the head or commanding part of the family of Wife, Children and Servants, who are the obeying part of the family; or of the Mistress of the family who commands, and of Children and Servants who obey.

Of what persons a family (in the largest sense) is compounded.

5. But because a Family may consist, where as parts of the Family there is neither Father nor Mother, Husband nor Wife, nor Children; A Family is properly, where several Servants obey the same Master or Mistress in the same house.

In the more proper sense.

6. Servants are twofold, either voluntarily serving with their consent first given; such as are those servants who for such wages serve their Masters

Of Servants.

for

for such a terme; or where they serve, whether they give consent or not, as where men are slaves, or apprentices. The power which the head of the family has over his Servants, is called *potestas herilis* or *despotica*, the Masters or Mistresses power. We speak first of Masters power over Servants serving for wages.

The Masters power does not arise from the Servants subjecting himself.

7. It is impossible that any man can oblige or subject himself to any man or creature by any Act of his will, for no Act of any mans will can have any power of himself; *Omnis potentia activa, est principium transmutandi aliud*: every active power is the cause of alteration in another body; the Act therefore of a mans will, can make no obligation in his body who does will it. Besides, it is against all rules of relation, that to bind and to be bound can be in the same thing; therefore it is much more absurd to suppose the whole man should be obliged by a part of himself, that is, by his will: Add hereunto, that if a man be obliged to his will, then is the most wilful man, the most just man, and every man is obliged to do any thing because he hath willed it, then which there is nothing can be more immoral and destructive to all society with mankind.

Nor from the Masters accepting his Servants submission. *Anon.*

8. If the Masters power did arise from the Servants subjecting himself to him, which is an Act of the Servants will, then an Act of the Servants will may have a power and obligation upon his Master, which is absurd, for this makes the Master to obey his Servant.

Yet in usual speaking, *voluntas* is confounded with *conatus*; as wee say that God did accept *Abrahams* will for the deed, in that he was willing to have offered up his son *Isaac*: whereas in proper speaking, God did will or command *Abraham* to offer up his son; and *Abraham* did obey (that is receive or accept Gods will) and did endeavor, not will (for it had been unnatural and murder in *Abraham* to have willed without cause the death of *Isaac*) to have done it, when God restrained him, and so God was pleased to accept of *Abrahams* endeavor to have pleased him: And so when any servant does endeavor to do his Masters will, though he be not able to perform it, yet ought the Master to accept it, because he does what he can (not to do any act of his own will, but) to perform an act of his Masters.

The Masters power does not arise from the Servants promise.

9. But suppose the Declaration of the Servants will, does evade into his promise given to his Master, yet cannot the Masters power arise from thence, because men are obliged to the performance of their promises by the Law of nature only, and that Law does oblige only in Conscience, but the Masters power obliges to corporal punishment: I say therefore, that no Masters power arising from any Act of the Servants will or promise, nor from the Masters acceptance, no Regal power can arise from the Princes acceptance of their Subjects submission; for a great family is a kingdom, and a little kingdom is a family, saies *Tho. Hobbes, cap. 8. art. 1. de Civ.*

The Masters power does not arise from the Law of Nature.

10. If the Masters Power did arise from the Law of Nature, then were the power of a Master over his servant eternal, and incommunicable; but the contrary of this is evident in all places of the world; for there is no place where the Power of Masters is not only dissolvible by the Laws, and consents of the Master and Servant; but where it is not slavery, there the Masters power is terminated to years, moneths, weeks, daies, or houres, &c. which expiring, the relations of Master and Servant are dissolved, the Masters power therefore is not from the Law of Nature.

11. If

11. If the Masters power did arise from Divine positive institution, then, where Gods revelation of himself in the Scriptures is not received and believed, have Masters no power over their Servants. But this is evidently false; for not only before Gods revelation of himself in the Scriptures, had Masters every where power or dominion over their Servants, but also every where in the world Masters have power over their Servants, as well where the Scriptures are not received, as where they are: The Masters power therefore does not arise from Divine positive institution. Nor by Divine positive institution.

12. *Nascitur servus*, says *Aristotle* most truly: There was no man that was ever born in the world (unless a posthumous King) but was born in a threefold subjection; first to the Laws of God, secondly to the Laws of his Parents, and thirdly to the Laws of his Country: And the Laws of every Country obliging men to the performance of their pacts and contracts, the Law of the place is the efficient cause, by the Contract of the Master and Servant (being the instrumental causes) of the Masters power; and not only gives the Master a power over his Servant, but also obliges the Master to perform all his promises specified in the Contract to his Servant. From whence the Masters power does arise.

It is evident therefore, that where there is no precedent Humane Law obliging, there cannot be any Family; for, the Law, by the Masters Contract with his Servant, gives him the power over his Servant. All *Grotius* his Government then, founded upon the Contracts of Men, is utterly false, and by consequence no one true Proposition can follow from thence. Yet truly, it is an error pardonable in him, who with his first milk sucked in this Popular principle: No question but he was a man as eminent in Humane learning, as any man of this last Age, and I doubt not but of a sincere and peaceable disposition. It is the excellency of Truth, that it is plain and easie to be perceived; whereas Falshood, with all art and learning, is rendred more obscure, by how much more is added to it. And it is strange for a stander by to see what monstrous absurdities *Grotius* runs into, to uphold his fabrick: For he makes God, at the Creation and Flood, to give Mankind a natural right, *viz.* all men alike, over all things, and this natural right to be immutable by God himself; and yet without giving any reason for it, he makes it mutable by the will of man; and Dominion, which he there says was brought in by the will of man, he says is *Jus naturale* too: So *Jus naturale* does signifie that which God gave to mankind; and *Jus naturale* does signifie that which mans will brought in contrary to what God gave to mankind, then which what can be more absurd? *Annot.* *lib.2.cap.2. par.2.* *lib.1. par.10.*

But Mr. *Hobbs*, *cap.2. art.9.* makes a Contract the act of two or more mutually transferring their rights; and a Pact to be, when one or both is trusted, and he who is trusted, does promise that he will perform; and supposeth the *Civitas* institutive, to take its first being from the Pacts of men: Which will not help him; for such Pacts, as well as Contracts, receive their obligation from precedent humane laws: And therefore all his book *de Cive*, which is derived from this begging the question, is false. Indeed, Mr. *Hobbs* is, no question, a man of most exquisite parts and learning, and possibly might have a peaceable intention in making the *Civitas* the Judge of all matters of faith as well as manners: But sure, many things in his generation of it can never consist; as his making *Jus* and *Lex* contrary one to another; his making the Legislator to depend upon the Citizen, for without his consent and proper pact either expres or understood, the Legis- *Annot. 2.*

Cap.12.art.3. lative right can be conferred upon none: And yet he ſays, *Wherefore doeſt thou call him Tyrant, whom God hath made King?* His making the *Civitas* to receive all power from the pacts and wills of men, and making the *Civitas* Head of the Church, and Judge of Faith, makes the power of the Church and all Faith to be a thing invented, and to receive their beginnings from the wills and pacts of men; then which, what can be more deſtructive to Faith and Religion? But for our Author *Tho. White* Gent. he is not worthy the name of a learned, rational, nor honeſt man.

Slaves. 13. Slaves are born, or made ſo. Slaves born, are the children of ſuch as were ſo. Slaves made ſo, happen two ways: For being condemned for

Condemned perſons. ſome crime committed againſt ſome humane Law, and therefore by the Law condemned to it. Where the Law condemns, it is the will of the Supreme power which condemns, and therefore not the will of the Slave that makes it ſo: I deny therefore that where the Law does not make Slavery, any man can make himſelf a ſlave to another; nor can any man uſe another as a Slave, where he is not made ſo by Law.

Priſoners by War. Or elſe, Slaves are Priſoners taken in War. There is no man will affirm, the taking of another man priſoner, gives the taker a power over the others life; for then all men falling into the hands of Thieves and Pirates, the Thieves and Pirates have a power over their lives, and ſo commit no murder in putting them to death: But Slaves from being made Priſoners, is, when there is competition between two Supreme powers, and they give their Subjects power over all their Enemies which they ſhall take Priſoners. It is not therefore the taking of another Priſoner, which gives a man power over anothers life, but a precedent humane Law which gives this power over thoſe Enemies, which any Subject ſhall take Priſoner, (and ſure no man was ever taken Priſoner by an act of his will.) It is falſe therefore

lib.1.c.5.p.31. de repub. that *Bodin* ſays, *That a man may make himſelf a Slave of his own accord,* (a man may as well offer violence or kill himſelf) and that a man bought for a price of Thieves and Pirates, is a Slave to the Buyer; for he is not made ſo by any humane law: Nor can any act of force, ever give another any power; nor can any continuance of time make any thing good which originally was not ſo; and therefore if all commands were originally from

Pag.46.de rep. force, as he affirms, then are no commands now any better, and ſo no difference between the commands of Thieves and Pirates, and of Fathers and

Slavery moderated. Kings. Although a man lawfully taken priſoner by another, be in his power, ſo as it is in the Takers power to have taken away his life, and ſo an act of grace in granting it; yet the Law which originally gave this power may moderate it, as here in *England* the Law hath reſtrained the Lord from killing or maiming his Vilain. Slaves have nothing proper againſt their Maſter.

Apprentices. 14. Apprentices are, when the Father or Mother do oblige a Child for ſuch a term to ſerve ſuch a Maſter; and this act is binding, becauſe by the Law of Nature the Father hath an abſolute power over his Children: But becauſe of the impotencie of Children, who cannot by reaſon of their youth, and want of art and experience, do any thing which may at firſt compenſate their diet and clothes; if the poverty or negligence of parents be ſuch, that they cannot or will not procure a Maſter for their Children; and where Children are Orphans, they may be bound and compelled to ſerve Apprentiſhips in ſuch manner as is preſcribed by the publique humane Laws of the place.

15. Neither

15. Neither *naturalis*, nor *delegata potestas* can be communicated nor aliened: But *acquisita potestas* (as the power of Masters over their servants and slaves) may be sold, aliened, or otherwise given away: And therefore Guardian in Chivalry may give or sell to another the Guardianship of his Ward; but Guardian in Socage cannot, for his is *delegata potestas*. What power is alienable.

16. The Master of every family deriving his power from the humane laws of every place, his power is restrained to the laws of that place; therefore ought he not to command his servant any thing which is against the laws of the place. When I say, by humane laws such a thing is to be done, or not done; I always except those laws which God did give to the Israelites, and peculiar only to them, when he pleased immediately to reign over them; which laws did supply those humane laws, by which his Vicegerents do procure peace among us. The Masters power restrained to humane laws. *Caveat.*

CHAP. IX.

Of Ecclesiastical power.

THat there is a *GOD*, who is the Author of all good past, present, and to come, and that He is to be worshiped and adored not only for the present, past, and future blessings in this world, but also in hope of eternal happiness in the world to come; is so naturally ingraffed into the minds of all men, that not scarce one man (*compos mentis*) in an age did ever deny it: It is no wonder therefore, if men attaining to such a height of impiety as to sell their inheritance in Heaven, unjustly to purchase possessions upon Earth, do always make the specious pretences of Religion and Reformation (as the easiest way to work upon the giddy and inconstant multitude, *carried hither and thither with every wind of doctrine*) the *Exordium* of all their Enterprises; for, By the light of nature, God is to be worshiped. That there is a God, and this God to be worshiped and served, is innate in the minds of all men, *Plato*, *Euthyphro* requires as the first axiom of all virtue.

—— Quoties vis fallere plebem,
Finge Deum.

2. But how they should worship him aright, from the imperfect use of their reason, prejudiced by their appetitions and affections, is not to be imagined: For, to worship and serve God not according to the will and pleasure of God, is superstition; and not to worship God, is atheism. It is therefore an impossible thing, without the special assistance of Gods grace, that men should not fall either into superstition or atheism. The difficulty of pleasing God from the light of nature.

3. It being impossible that any act of mans will can please God, be it what it will, (for *Saul* intended well in sparing *Agag*, and the best of the cattle of the *Amalekites* for a sacrifice to God; and *Uzzah* in staying the Ark:) God therefore by the light of humane nature being to be served, and yet not according to the will or fancy of any creature; what then is left, but that he will be served accordingly as he hath revealed himself to mankind? For, *without faith it is impossible to please God*; and faith is the believing in God as he hath revealed himself to mankind, conjoined with the love of it. How God will be served.

Gods revelation to *Adam.*

4. In the beginning of the world, God revealed himſelf to *Adam*, that he would be ſerved and obeyed by him, in abſtaining from eating of the *Tree of the knowledge of good and evil, Gen.* 2.17. It is worth the obſervance, that the Knowledge of good and evil, is in it ſelf a thing to be deſired and endeavored, ſo as it be done in obedience, not diſobedience to Gods command. God therefore in puniſhing *Adam*, learns all men this leſſon, that in all his commands he will be ſimply and abſolutely obeyed, without any diſputing whether it be good or bad to obey him. But Gods covenant with *Adam*, *Adam* ſoon made void, by eating the forbidden fruit: God ſent him forth therefore from the garden of Eden, to dreſs the ground from whence he was taken.

God did reign by covenant with our fathers before the flood.

5. God is ſaid to reign by covenant, where he reveals himſelf how he will be worſhiped and ſerved. The Scriptures are ſilent how God did reign with our fathers before the Flood; but that God did, is evident: for it was not *Abels* ſacrificing to God, which pleaſed God, for *Cain* ſacrificed as well as *Abel*; but *by faith Abel offered unto God a more acceptable ſacrifice, Heb.* 11.4. and the doing of any thing by faith, is the doing it in conformity to Gods command, as he hath ſupernaturally revealed himſelf: God therefore muſt firſt command (or reveal himſelf) before *Abel* can do any thing by faith: And *Enoch walked with God*; and *Noah was a juſt man and perfect in his generation, and Noah walked with God. Enoch's* and *Noah's* walking with God, was nothing elſe but walking with, and doing what God had commanded: And, where there is no Law, there can neither be Juſtice, nor tranſgreſſion: Therefore could neither *Noah* be juſt, nor the ſons of men ſo malitious againſt God, that *all the imaginations of the thoughts of their hearts were only every day evil*; if God, for *Adams* ſin, had only withheld his grace from Mankind, and not revealed himſelf unto them; for then men had ſinned of infirmity, but here they ſinned malitiouſly.

*Gen.*5.22. *Gen.*6.9.

Gen. 6.6.

God did reign by covenant with *Noah* and his poſterity after the flood.

6. God did eſtabliſh a covenant with *Noah* and his ſons after the flood, in this form, *Gen.*9.9,10,*&c. Behold I, even I eſtabliſh my covenant with you, and with your ſeed after you, and with every living creature that is with you, in fowl, in cattel, in every beaſt of the earth which is with you, of all that go out of the ark, whatſoever living thing of the earth it be; And my covenant I make with you, that from henceforth all fleſh ſhall not be rooted out by the waters of a flood, neither ſhall there be a flood to deſtroy the earth any more: And God ſaid, This is the token of my covenant which I make between me and you, and every living creature that is with you for ever; I do ſet my bowe in the cloud, and it ſhall be for a token between me and the earth, &c.* Yet Mankind did diſtruſt God, and ſaid, *Go to, let us build a city and a tower, whoſe top may reach unto heaven, and let us make us a name, leſt peradventure we be ſcattered abroad upon the whole earth.* So that Wiſdom ſays, *Moreover the nations in their wicked conſpiracie being confounded, ſhe found out the righteous and preſerved him blameleſs with God.*

*Gen.*11.4.

Sap. Solom. 10.5.

Gods covenant with *Abraham.*

7. Yet God was ſo merciful unto Mankind, as not utterly to forſake them, but eſtabliſhed his covenant with *Abraham* and his ſeed: *I will make my covenant between me and thee, and thy ſeed after thee in their generations, by an everlaſting covenant, that I may be a God unto thee & thy ſeed after thee, &c.* Gen.17.7,&c. *This is my covenant which you ſhall keep between me and you, and thy ſeed after thee; Every man-child among you ſhall be circumciſed, &c.* God did not make any new covenant with *Iſaac* and *Iſrael*, but renewed

that

that which he had made with *Abraham*; and by this covenant the Iſraelites were not to ſerve God as God ſimply, but as the God which had appeared and made a covenant with *Abraham*, *Iſaac* and *Iſrael*. Under this covenant God by *Moſes* gave the children of Iſrael the Moral, the Judicial, and Ceremonial law; and under this covenant was the *Meſſias* promiſed, and propheſied of by all the Prophets.

Mr. *Hobbs*, *cap.* 16. *art.* 13. ſays, The ſupreme power, and alſo the interpretation of Scripture was in *Moſes*, while he lived, and not in *Aaron*: Nor do I gainſay it; for, *Moſes* was of the Tribe of *Levi*, as well as *Aaron*: Beſides, what ſhould hinder but that God, when he pleaſed, might give that to *Moſes*, which ever after ſhould be inſeparable from the High Prieſt. But where he ſays from *Num.* 27. 18, 19, 20, 21. that *Eleazer* was not only High Prieſt, but alſo had the ſupreme power, becauſe that when *Eleazer* had enquired of God, *Joſhua* and all the people ſhould go in and out at his word; It does not follow; for then had neither *David* nor *Saul*, &c. the Soveraignty, who asked counſel of God by the High Prieſt. It is true, that was Magiſterial in *Eleazer*, which was Miniſterial in *Aaron*: It is true which he ſays, that *Joſhua* had but part of the power which *Moſes* had: But if it be true which he ſays, that both powers were in *Eleazer*, then had *Joſhua* none of the power which *Moſes* had: But that *Joſhua* had all temporal power, and not from *Eleazer*, both in command of war and governing the people, is manifeſt every where in all the book of *Joſhua*; neither had *Eleazer* any thing to do with the diviſion which fell to the Iſraelites by lot: *Behold, Joſhua ſaid, I have divided unto you by lot, thoſe nations that remain, &c.* which thing does belong only to the ſupreme Temporal power. And whereas he ſays, After the death of *Joſhua* in the time of the *Judges* unto King *Saul*, it is manifeſt that the Regal right inſtituted by God remained with the High-Prieſt; ſure he will not deny that the ſupreme power was in *Deborah*, and yet ſure he will not affirm that ſhe had the Sacerdotal power.

Annot.

Note this; for Mr. *Hobbs* does.

Act. 13.

And whereas Mr. *Hobbs* ſays, *That the Kings of Iſrael had power over the High-Prieſts*, and inſtanceth in *Solomons* depoſing *Abiathar*; If he means that they had power over their perſons, he diſputes without an adverſary for me: But it does not follow from thence, that they had the Sacerdotal power in them; for *Solomon* did reſtore *Sadoc*, who was of the line of *Eleazer*, to whom he aſcribes ſo much power, whereas *Abiathar* was of the family of *Ithamar* (one of *Aarons* younger ſons, whereof *Eli* was the firſt.) And he may as well infer that the Regal power was ſubject to the High-Prieſt, becauſe *Jehojada* reſtored *Jehoaſh* after he had ſlain *Athalia*. And whereas he ſays, *That the Kings being conſtituted, there is no doubt but both powers were in them*; It is falſe: For, if the Sacerdotal power were in the King, then might the King execute his power; but *Uzziah* tranſgreſſed againſt the Lord his God, when he went into the temple of the Lord to burn incenſe upon the altar of incenſe: For, as *Azariah* the Prieſt told him, *It appertaineth not unto thee, Uzziah, to burn incenſe unto the Lord, but to the Prieſts the ſons of Aaron that are conſecrated to burn incenſe, &c.* See *Num.* 18. 7. & *Exod.* 30. 7. *And the Lord ſmote him with leproſie, and Ahaziah thruſt him out*, v. 20. See the manner more at large, *Joſeph. lib.* 9. *cap.* 11. *de antiq. Judæor.* And *Saul* was therefore rejected from being King, becauſe in caſe of extreme danger he did offer ſacrifice, 1 *Sam.* 13. 14.

Cap. 11. *ar.* 16. *prope finem.*

Joſ. de antiq. Jud. l. 8. *c.* 1.

cb. 16 *art.* 16.

2 *Chro.* 26. 16.

ver. 18.

7. That

The new and laſt Covenant and Revelation of God to Mankind by his Son.

7. That our Saviour Jeſus Chriſt, God and Man, foretold by all the Prophets, moſt eſpecially by that moſt noble Prophet *Iſaiah*, (deſcended from the Kings of *Judah*,) took our nature upon him, in *Auguſtus Ceſars* reign, when *Janus* Temple was ſhut, and an univerſal peace over all the world, who by himſelf once offered for us under *Pontius Pilate* the deputy, was a fulfilling of the ceremonial Law, (being but a type of him to come) and a ſufficient propitiation and ſatisfaction for the ſinns of the whole world beleeving on him, being the foundation of all Chriſtian faith, I will not diſpute.

Nota Bene,

Note Reader that our Saviour being the Prince of Peace, this Prince of Peace, was born into the world when there was an univerſal Peace; ſo being the King of Peace was born (as if there could be no peace without it) when as there was none but Monarchy (and that not elective) in all the world.

What Order our Saviour took in his life time, for executing of his laſt Will and Teſtament and how executed.

8. But becauſe *parum eſt lex, niſi ſunt qui poſſunt jura gerere*, it had been to no purpoſe for our Saviour to have made his laſt Will and Teſtament, if he had not made Executors to have executed it, he choſe and ordained twelve Apoſtles, & ſeventy Diſciples or Evangeliſts his Executors: note, that in the Goſpells, the Evangeliſts are uſually called Chriſts Diſciples as well as Apoſtles, but the Diſciples the Evangeliſts are never called his Apoſtles;) After our Saviours paſſion St. *Peter* in his exhortation for the chooſing of another in the place of *Judas*, who had betrayed his Maſter, ſaies, *Acts.* 1.20. *Let his habitation be void and no man dwelling therein, and his Biſhoprick* τὴν ἐπισκοπὴν *let another take.* Here the Apoſtles (who are alſo called Diſciples) appointed *Joſeph* and *Mathias*, but the lot fell upon *Mathias*; theſe Appoſtles created ſeven Deacons, *Acts* 6. 6. choſen by the multitude, after prayer, having laid their hands upon them. *Peter* and *John*, *Act.* 8. 17. confirm and lay hands on the *Samaritans* converted by the preaching of *Philip*. *Saul* is called to the Apoſtleſhip after he was ſtriken blind, and had ſeen Jeſus whom he had perſecuted, *Act.* 9. 3, 4, 5. *Barnabas* was ſent to confirm the beleevers converted by them who were ſcattered upon St. *Stevens* perſecution at *Phenice* and *Cyprus*, *Act.* 11. 22, 23. *Paul* and *Barnabas* confirm the Soules of the Diſciples, and ordain Elders in every Church, *Act.* 14. 22, 23. Paul *ſaid to* Barnabas, *let us viſit our brethren in every City where we have preached*, *Act.* 15. 36. neither can it be ſhewed that any in the Acts, did ordain, lay on their hands, confirme or viſit, but only the Apoſtles; ſo that as Apoſtles, that is, men ſent not only to preach, confirm, ordain, viſit, &c. every where, were none made but by our Saviour; For St. *Paul* and *Barnabas* were miraculouſly choſen by him; *And the Lot fell upon* Mathias, *Act.* 1. 26. and the Lot is of the Lord.

Acts. 15. 2.

Our Saviours promiſe to his Church.

9. But becauſe our Saviour would not leave his Church in ſo ſhort-lived a ſtate as to be but of one Ages continuance (God having left with the *Jewes* ſufficient power for the propagation of the *Jewiſh* prieſthood, untill all ſhould be fulfilled by our Saviour) he ſaies, *Behold I am with you even unto the end of the world, Amen*, St. *Matth.* 28. 20. But preaching the Goſpel, ordaining, laying on of hands, confirming, &c. are neceſſary fundamentals for the conſtituting of a Chriſtian Church unto the end of the world, &c. Our Saviour therefore will be with his Church unto the end of the world in Preaching the Goſpel, in ordaining, laying on of hands, confirming, &c.

The Apoſtles did ordain Biſhops, Presbyters, nd Deacons.

10. It being evident that the Apoſtles did preach, ordain, &c. our Saviour having promiſed to be with the Apoſtles and Diſciples (*i. e.* the Church) unto the end of the world, therefore after the Apoſtles, preaching the

the Goſpel, ordaining, &c. ſhould be in the Church, let us ſee to whom our Saviour did bequeath this ghoſtly power after the Apoſtles. The Apoſtles did ordain Biſhops, Elders, and Deacons, *Epiſcopos, Presbyteros, Diaconos*: That Presbyter is not the name of Age, but Office, is moſt manifeſt; for when St. *Paul*. had ordained Presbyters or Elders in every City, ſure he made them no elder then they were; Beſides he made *Timothy* a Presbyter when he was but a young man, 1 *Tim.* 4.12. *Act.* 14. 21.

10. As our Saviour did uſually call his Apoſtles his Diſciples, but never called his Diſciples or Evangeliſts his Apoſtles; ſo the Apoſtles did uſually call Biſhops, Presbyters, but never called Presbyters, Biſhops. As *Act.* 20. 17. whom St. *Paul* calls Elders of the Church, *v.* 28. he calls ἐπισκόπους, and St. *John* the Apoſtle *Ep.* 2. 3. *v.* 1. calls himſelf the elder. It is true therefore that every Biſhop is (or at leaſt ought to be) a Presbyter, but every Presbyter is not a Biſhop: For St. *Paul* ſaies, *Againſt an Elder or Presbyter receive not an accuſation, but before two or three witneſſes*, 1 *Tim.* 5. 19. But equals cannot judge equals, therefore *Timothy* as a Presbyter could not judge a Presbyter, therefore he ſhould judge him as being Biſhop, and ſo by conſequence Presbyters are ſubject to the judgment of Biſhops (that is in Epiſcopal jurisdiction.) Beſides, Biſhops have power of ordination of Presbyters in every City, 1 *Tit.* 5. 1 *Tim.* 5. 22. but it is no where found that ever Presbyters did ordain Biſhops. It is not therefore Eccleſiaſtical practice only, that is, the univerſal practice of all Chriſtians in all ages untill *John Calvin*, but the inſtitution of our Saviour, by which Biſhops do excell and govern Presbyters. It was after the deſtruction of *Jeruſalem*, that *Epiſcopi & Presbyteri capere appellari Pontifices & ſacerdotes*, as the moſt learned *Eſtius* obſerves; and that the name of Prieſt is not a Jewiſh word, is evident, for *Melchiſedech* was not a *Jew*, and yet a Prieſt; and our Saviour a Prieſt for ever after the order of *Melchiſedech*. The difference between a Preſbiter and a Biſhop. *Diſtin.* 24. *l.* 4. *pag.* 35, 36.

11. What St. *Paul* in the end of his Epiſtle to *Timothy*, calls Biſhop of the *Epheſians*, St. *John Revel.* 2. 1. calls Angel of the Church of the *Epheſians*. So St. *Paul* and St. *John* underſtand the ſame thing by Angel, and Biſhop; but *Angelus* and *Apoſtolus* are the ſame, and therefore *Epiſcopus* and *Apoſtolus* are the ſame. But what need that be proved by deduction, which the Apoſtle, *Gal.* 1. 19. expreſſeth: For *James* was none of the twelve, yet being Biſhop of *Jeruſalem*, St. *Paul* teſtifies him to be an Apoſtle. Beſides it is evident, *Epiſcopatus* is the office as well of an Apoſtle as a Biſhop, *Act.* 1. 20. There is therefore no difference between an Apoſtle and a Biſhop; only Apoſtles conſtituted by our Saviour, had their function univerſal, whereas the Biſhops or Apoſtles ordained by the Apoſtles, had but a Topical function, that is, the exerciſe of their power was reſtrained to their City or Dioceſs: And all Eccleſiaſtical writers do affirm that St. *James* did preſide in the Council of *Jeruſalem*, although St. *Peter* with other of the Apoſtles were Members of it. An Apoſtle and Biſhop the ſame.

12. Our Saviour having promiſed the ghoſtly power of Confirmaion, Ordination, &c. to be with his Church to the end of the world, and the power of Ordination, Confirmation and Excommunication, being bequeathed only to the Apoſtles, the power of Ordination, Confirmation, and Excommunication deſcend only to the Apoſtles ſucceſſors, *viz.* Biſhops rightly ordained. The Power of Biſhops, which Prieſts have not.

13. Not the voice and letter, but the genuine and true ſenſe of the Word Of the interpretation of Scriptures.

Word of God, is the Canon of Christian Doctrine; for the minde cannot be governed by Scriptures, unless understood. It is necessary therefore that Scriptures be interpreted before they be made a rule. It will therefore follow that either God hath left a Power which may interpret Scripture, or else that God hath revealed himself to Men without sense or meaning; but the latter of these is most false and blasphemous, therefore it is true that God hath left a power upon earth which may interpret the Scriptures.

The Scriptures cannot be interpreted by themselves, that is, one place by another.

14. If the Scriptures were as Arts and Sciences, which are derived from higher Principles or Axiomes, which though they cannot be proved (but are as *Aristotle* calls them, indemonstrable propositions) yet are so clear and manifest, that no exception can be taken to them, then indeed the Scriptures as well as Arts and Sciences, might be proved, one place by another, untill they were resolved to their first Principles; which though granted, cannot be proved. But it is far otherwise with the Scriptures, for there is no Scripture which is not of like Authority with any other, every Scripture being the Word of God; one place of Scripture therefore cannot be interpreted by the consequents which may follow from another, any more then the consequents which follow from —— *Quæ eidem sunt æqualia, inter se sunt æqualia*, may be interpreted by *Omne totum est majus sua parte.*

Not all they who do translate the Scriptures are the interpreters of them.

15. There is no prophesie of the Scripture of any private interpretation, 2. *Pet.* 1. 20. It is not therefore every one, who can translate the Scripture out of one language into another, with his own private conceptions upon them, which renders them to be interpreted by him. What then? hath God revealed himself to mankind in general without sense or meaning? No, it does not follow; for as in temporal Laws, no man can interpret them but he that made them, either by himself or them whom he shall constitute, yet every man may by his reason and discourse direct his own actions in conformity to those Laws; but if he shall do any act upon misconstruction or interpretation of his own, his mistaking the meaning of the Law shall not excuse him: So private men may endeavor to direct their actions accordingly as they suppose God hath directed them in the Scriptures, yet if upon their own heads they undertake to interpret the Scriptures (although in order only to their own actions) their misunderstanding the Scriptures, shall never excuse any unjust act.

To whom the Authority of the interpretation of Scripture doth belong.

16. Every Law of God is the Word of God, but every Word of God is not the Law of God; as *Jacob* went into *Egypt*, is the Word, but not the the Law of God: The Scriptures contain Political, Historical, Moral, and Natural things; which are not rules of the mystery of Christian Faith and Religion. Those things which concern Morality and Temporal power and Government, our Saviour made no alteration in them; for he saies, St. *Matth.* 5. 17. *Think not that I am come to destroy the Law or the Prophets, I am not come to destroy, but to fulfil.* And therefore, *quid est homicidium? quid furtum? quid sit meum vel tuum? &c.* belongs to the Temporal power, as much since our Saviour as before; and truly I do not think I should do the Church of *England* any wrong, if I should with *Lindwood* affirm, that not only the Probate of Wills, but also the cognisance of Tithes was in the Church *ex consuetudine Angliæ*: but those things which relate to mysteries of Christian faith; as our Saviors being the Son of God, took humane nature upon him, and was born of a Virgin, preached repentance, died upon the cross for the sinnes of the world, rose again the third day, &c. God to make his power known,

known, by the preaching of a few mean men and Fiſhermen, and from the mouths of babes and ſucklings (all Temporal power not only not permitting, but contradicting it) converted the world to Chriſtianity: And although our Saviour gave power to all his Diſciples to preach the Goſpel, yet only to the Apoſtles *He expounded the Scriptures, beginning at Moſes*; And it was the Apoſtles underſtandings which he opened, that they might underſtand the Scriptures. *And the ſpirits of the Prophets are ſubject to the Prophets:* Our Saviour therefore having promiſed the continuance of all ghoſtly power in his Church, and having given the power of the interpretation of the Scriptures (that is, thoſe Scriptures which concern him immediately) only to his Apoſtles, the authority of the interpretation of the Scriptures is continued only in their ſucceſſors the Biſhops: *As my Father ſent me, ſo ſend I you.* Luk.24.27. ver. 45. S.Joh.20.21.

17. Our Saviour being the Head of the Catholique Church, therefore all the body of the Church cannot make one Article *de fide*; and, *Whoſo ſhall go about to adde or diminiſh from the propheſie of the book of life, God ſhall plague him, and take away his part from the book of life*, Rev.22.18,19. Yet where he gives command to his Church to do any thing, but gives it no direction how it ſhould be done, as, *Let all things be done decently and in order*, 1 *Cor.* 14.40. there he gives the Church a power to make laws for the execution of his command: for, decencie and order muſt preſuppoſe laws and directions; and where there are no laws, there things muſt neceſſarily be done indecently and diſorderly. It therefore belongs to the magiſterial or governing part of the Church (that is the Biſhops) to make laws for the decencie and order of the Publique ſervice of God, Conſecration, Sacraments, things offered up to God, and Rites of Marriage. To whom the right of making Eccleſiaſtical laws belongs.

18. It was only to *Timothy* as Biſhop of the *Epheſians*, that S. *Paul*, 1 *Tim.cap.*2. exhorts, that firſt of all *prayers, ſupplications, interceſſions, and giving of thanks be made for all men.* Therefore to Biſhops it only belongs: And S. *Ambroſe* his Liturgy is continued in *Milan* to this day, if no alteration were ſince the Council of *Trent*. To whom the compoſing of Publique Liturgies belongs.

19. The next Order in the Church of Chriſt to Apoſtles and Biſhops, is that of Presbytery or Prieſthood, as S. *Paul* ſays 1 *Cor.*12.28. *God hath ſet ſome in the Church, firſt Apoſtles, ſecondly Prophets, thirdly Teachers.* The Sacerdotal or Prieſtly power, in moſt things is the ſame with Epiſcopal or Pontificial: as, both of them have power to conſecrate the Sacrament of our Lords Supper, and give it to the Laity; both of them have power of Abſolution and Remiſſion of the ſins of believing and repenting ſinners; both have power of Benediction, of offering up the ſervice of the Church; both of them have power to preach the Goſpel, that is, preach what our Saviour, the Apoſtles and Evangeliſts taught, and what Interpretation the Church hath made; both have power of publique baptizing Infants; both have power of viſitation of the Sick, celebrating Marriage and pronouncing man and wife: But Ordination, Confirmation, Excommunication, Interpretation of Scriptures, (And therefore if any Prieſt preaches any other Interpretation of the Scriptures, than what the received Interpretation of the Fathers of the Eaſtern and Weſtern Churches have made, and the Councils of the firſt 400 years after our Saviour, which Interpretation is received and acknowledged by the Biſhops of the Church of *England*, the Biſhops by the teſtimony of two or three witneſſes may judge him:) Viſiting Parochial Congregations, compoſing Publique Forms of Prayers, Conſecration of Churches and things offered up to God, belong only to Biſhops. Of Prieſts and their functions.

Of Deacons and their function.

20. Deacons are almoſt in the ſame proportion to Prieſts, as Prieſts are to Biſhops: Deacons may preach the Goſpel, which is evident, for the *Samaritans* were converted by the preaching of *Philip*. A Deacon is the Miniſter of Biſhop and Prieſt, to aſſiſt them in offering up the Publique ſervice of the Church, in giving the Cup after them in the Sacrament, in taking the offerings of the Prieſt, in the Viſitation of the ſick, in Publique Baptiſm: But a Deacon cannot conſecrate the Sacrament, pronounce Abſolution nor Benediction; and theſe three, no queſtion, are the Orders which *S. Paul* calls, firſt Apoſtles, ſecondly Prophets, thirdly Teachers; for in all things, but only preaching and baptizing, a Deacon is the Miniſter of the Prieſt and Biſhop.

Act.8.12.

1 Cor.12.28.

What is a Church.

21. *Eccleſia*, ſays *S. Cyprian*, *eſt plebs epiſcopo adunata*; or as the Church of *England* hath defined it, a Church is a Biſhop, Curates, and Congregations committed to his charge. Every Congregation being a Pariſh (that is, a Prieſt rightly inſtituted and inducted, exerciſing his function, and the inhabitants of that Pariſh conforming themſelves to the rules of the Biſhop.) *Una eccleſia plures epiſcopos non habet, plures presbyteros habet.* And therefore *S. James* ſays, *If any among you be ſick, let him call the elders of the Church, cap.5.14.* ſuch was the Church of *Epheſus*, of *Smyrna*, *Laodicea*, *Antioch*, *&c.* and ſuch is the Church of *London*, *Rocheſter*, *&c.*

A National Church.

A National Church, is the aggregation of ſeveral Churches in one Kingdom, in the ſame form of Liturgy, Doctrine, and Publique Worſhip of God: ſuch are the Churches of *Greece*, *Moſcovy*, *England*, *France*, *&c.*

The Catholique Church.

The Catholique Church, is all Chriſtian Churches united to one Head Chriſt Jeſus.

He that denies the authority of the Church denies the authority of the Scriptures.

22. He that heareth not and obeyeth not the Church, is to be accounted as a Heathen man, *Matth.18.17.* And what is a Heathen man, but he which denies or believes not the Scriptures? Nor is it men, which men deſpiſe and ſet at nought in deſpiſing the Church, but God and Chriſt himſelf; for, *He that deſpiſeth you, (viz.* them ſent by Chriſt) *deſpiſeth me; and he that deſpiſeth me, deſpiſeth him that ſent me.* *S.Luk.10.16.*

Annot. 1. That Regality is a ſacred order, being an inſtitution of God, *Gen.49.10.* and every King the *Lords Anointed*, is in more then thirty places expreſſed by God himſelf. It is therefore, I conceive, why the Church of *Rome* allows Kings the Sacrament in both kinds: But how Kings, as being Chriſtian, can have any ghoſtly power, (inſtituted by our Saviour to be only in his Church, and that only by ſuch means as he hath preſcribed) I do not underſtand: For, Kings, as Kings, are no eſſential part of Chriſts Church, and therefore cannot create ghoſtly power. And this King *James* confeſſed, as you may read in *Spotſwoods* Hiſtory, *p.* 514. And if Kings by becoming Chriſtian, have ghoſtly power, then is the power left by our Saviour to his Church, not only weakned by Kings being converted to Chriſtianity, but alſo divided, which is abſurd. But if *Solomon* his offering a peace-offering for the people, and his bleſſing the people, be objected; I anſwer, it does ſignifie no more then a fathers bleſſing his children, and praying to God that they may live peaceably: But none of the Kings did ever offer a ſin-offering or burn incenſe to the Lord, without reprehenſion by God.

Annot. 2. Out of this it is evident, that God never forſook men, before they firſt did forſake him: *Adam* did firſt eat the forbidden fruit, before God drove

drove him out of *Paradise*, and cursed Mankind, and the ground for his sake; Then mankind sinned malitiously, before God brought the general *Cataclysme* upon them; and they made a wicked conspiracy, before God confounded them at *Babel*, but none were more malitiously stubborn than the *Jewes*, who when they were enjoyned to observe the Ceremonial Law, scarce ever observed it, but went a whoring after the Gods of the Nations, *Moab*, *Ammon*, *Ashteroh*, *&c.* yet since our Saviour hath fulfilled it, never did men so superstitiously observe any thing, as they have done it. And now Oh that I could more then powre forth all *Jeremies* lamentations, in commiseration of thee O my Mother Church and Native Country, much more deserving it then the *Jewes*, in the *Babilonish* Captivity! for *Jeremiah* foresaw their return and restitution, whereas I cannot hope but that Christianity it self is in the very wayne here among us: For not only Bishops and Priests are therefore hated, because they are Christs Ministers; and Puppets Mountebankes, and Tryers, set up in the place of them; and not only all the carved works in the houses of God, in despite of God, are beaten down with Axes and Hammers, and the houses themselves destroyed and made stables for horses, but all the solemn days kept in commemoration and gratitude for our Saviours Nativity, Passion, Resurrection, Ascention, &c. in despite of Christianity decryed as superstitious, &c. Sure as glorious Christian Churches as ever were in *England*, have been in *Africa*, *&c*, where (were it not for some poore Christian slaves) there is not so much as any footsteps of Christianity left.

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The First Chap. *contains the causes of Subjection of Subjects to Supream Powers, of Subjection of Children to Parents, of Servants to Masters, as also to them who have oversight over us in the Lord.*

The Second Chap. *treats of succession of Princes in Hereditary Monarchies, and discovers the fiction of the Salique Law in* France; *and that it was a meer invention to exclude the just title of the Kings of* England, *and has been ill observed by the* French *themselves, when it did not conduce to their advantage.*

The Third Chap. *treats of the Municipal Laws of my dear and native Country, before they became invaded and subverted by those men, who in so many several shapes since* 1640. *have arrogated to themselves the name of Parliament.*

THE THIRD BOOK.

CHAP. I.

Of Subjection.

1. 

IT is observed by a Writer, that our Saviour in communicating the Cup to his Disciples, as if he had foreseen that it would be detained from the Laity, gave it in these words, *Drink ye all of it*; whereas in partaking of the Bread he said only, *take, eat, &c.* I am sure it is well worth the observation, that the Holy Ghost as foreseeing the great abuses which should happen in the world, by the specious pretences of Religion, Conscience, the Power of the People or Parliaments, &c. commands Subjection to Higher Powers, not in certain cases, but absolutely; and not certain persons, but *every Soul is to be Subject to the Higher Powers.* Introduction. Rom. 13. 1.

2. I say, Supream or Regal Power being from God immediately by the Law of Nature, it does necessarily follow that subjection of Subjects to their Soveraign is due by the Law of Nature, nor can the relations be dissolved but by God himself. I may, I think, without any affectation, affirm, that the Judges in *Calvins* case were as learned and upright as ever any before, or since; let us therefore see their resolutions. Subjection due by the Law of Nature to Soveraigns.

3. Those learned and upright Judges resolve *tit. Ligeance*, Ligeance is a true and faithfull Obedience of the Subject due to his Soveraign. This Ligeance and Obedience is an incident inseparable to every Subject; for as soon What is Ligeance.

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soon as he is born, he owes by birthright Ligeance, and Obedience to his Soveraign, *Ligeantia est vinculum fidei, & quasi essentia Legis*, and a little after *page* 5. Ligeance does not begin by the Oath of the Leete; For many men owe true Ligeance, who were never sworn in the Leete. (Where note it is false, if not Treasonable in Mr. *Hobbs*, who affirms *that the Knowledg of the Legislator does depend upon the Citizen*: For every man, is as much a subject before he hath taken the Oath of Aligeance, as after.) And for whatsoever is due by the constitution of man may be altered; but natural Ligeance of the Subject to his Soveraign cannot be altered; *ergo*, natural Ligeance, or Obedience to the Soveraign is not due by the Law or constitution of man. And again, whatsoever is due by the Law of Nature cannot be altered, but Ligeance and Obedience of the Subject to the Soveraign, is due by the Law of Nature, *ergo*; it cannot be altered. *Et qui abjurat regnum, amittit regnum, sed non regem; amittit patriam, sed non patrem patriæ.*

Note.

Pag. 25. tit. 5.

Pag. 9.

Ligeantia acquisita Pag. 5. & 6.

4. *Ligeantia acquisita*, or Denization is threefold, First, absolute to them and their heirs. Secondly limited, as when the King does grant Letters of Denization to an Alien, and the Heirs Males of his body, or for life. The third is, when the King by Conquest conquers another Kingdom, or part of it, the *Antenati & Postnati* are Denizens of the Kingdom, or Dominion so conquered. Yet sure under correction, the *Postnati* are not only Denizens but Natural Subjects. For Power and Subjection being by the Law of Nature, all men born in the Dominion of any Soveraign, are his Natural Subjects; and with this does Sir *Ed. Coke* agree. If a man come into *England*, and have issue two Sons, these two Sons are Indigend Subjects born, because they are borne within the Realm, that is in the Dominion of the King; but if any be borne out of the Realm, that is out of the Dominion of the King (although of Natural Subjects to the King) they are *alienigenæ*. They therefore who are *Postnati* in the exercise of the Kings power by Conquest, are his natural Subjects.

Com. Lit. pag. 88.

Local Ligeance, tit 3. pag. 6.

5. Local Ligeance is, when any Subject of *France* is in *England*, or any *English* in *France*, &c. so long as he is in the power of the King, he is *de facto*, his Leigeman. Therefore a Frenchman being in *England*, joyned with divers Subjects of this Realm in Treason against the King and Queen, and the indictment concluded *contra ligeantiæ suæ debitum*; For he owed the King a Local Obedience; but if he have issue here, that issue is a Natural born Subject, and it is not *cælum nec solum*, neither clymate nor soyle, but *Ligeantia* which makes a natural Subject; and therefore if Enemies possess any fort, &c. the issue borne there is no Subject of the Kings, by as much reason those Subjects borne after Conquest by any King of *England*, are his Natural Subjects.

Ligeantia Legalis, tit. 4. Pag. 6. 7.

6. Legal Ligeance is, when at suit of the King, the Subject takes the Oath of Ligeance to the King, which is; You shall sweare that from this day forward you shall be true and faithful to our Soveraign the Lord King *Charles* his Heirs, and truth and faith shall beare of life, and member, and Terrene honor, and you shall neither know nor heare of any ill or damage intended unto him, that you shall not defend, so help you Almighty God. The substance and effect hereof is due by the Law of Nature, *ex institutione naturæ*; the form and addition of the Oath is *ex previsione hominis*. In this Oath five things are observed.

First

1. For the time, it is indefinite and without limit, *from this day forward.* 2. Two excellent things are required, that is, *to be true and faithful.* 3. To whom? *To our Soveraign Lord the King and his heirs.* 4. In what manner? *And faith and troth ſhall bear &c. of life and member,* that is, until the letting out of the laſt drop of our deareſt blood. 5. Where, and in what places ought theſe things to be done? In all places whatſoever; for, *You ſhall neither know nor hear of any ill or damage &c. that you ſhall not defend &c.* So as Natural Ligeance is not circumſcribed within any place. Five obſervable things in the Oath of Ligeance.

7. Subjection, as well as Regality, being by the Law of Nature; *Quæ Deus conjunxit, nemo ſeparet.* And let no man or men ever think to mend what God hath made: For beſides the innocent blood which will be ſhed, beſides the rapine, plunder, ſacrilegious profaning of all ſacred things in the mending, if God in his judgments doth permit ſeditious men to proſper in their wickedneſs, ſo as they ſuppoſe they have attained their Ends; yet their Ends never end in peace among themſelves: For, abſtracting from the general fear common to them all, of the right Heirs recovering his right; it cannot be expected that all Competitors will be pleaſed; ſome will think others too great, none will think themſelves great enough; They themſelves have made a preſident to evade all ſubjection and obedience to Laws and Government, by pretending Liberty and Reformation: So that after ſo much bloodſhed, what can be expected but the ſhedding of more, without ever hoping to have an end? Well therefore ſays Sir *Edward Coke*: *Inſt. 3. p. 36.* "Peruſe over all our Books, Records and Hiſtories, and you ſhall find a "principle in Law, a rule in Reaſon, and a trial in Experience, That Treaſon "does ever produce fatal and final deſtruction to the Offender, and never "attaineth to the deſired end, (two incidents inſeparable thereunto:) And "therefore let all men abandon it, as the moſt poiſonous bait of the Devil "of Hell; and follow the precept of holy Scripture, *Fear God, honor the "King, and meddle not with the ſeditious.* The conſequent upon Subjects endeavoring to diſſolve their ſubjection.

But it may be objected, That though Subjects Allegiance be natural, or due by the Law of Nature; yet ſince there cannot be any viſible power under Heaven, which can judge between an Uſurper and rightful Prince, what rule have Subjects to direct them to whom they owe their ſubjection or obedience? *Object. 1.*

It is true, there is no viſible Power under Heaven which can judge between an Uſurper and rightful Prince, but the Conſciences of men: Yet being natural, a man may as well ask how a man ſhall know whether every Being be of leſs excellency then the Cauſe of its being? or that things equal to a third, are equal to one another? I am confident that (where the confuſion was not made by Popular rage and uſurpation) ſince the beginning of the world, God did ſcarce ever leave men ſo deſtitute, but they were morally certain to whom they did owe their Topical and Natural obedience. *Sol.*

But if Regal power be the Ordinance of God, and Primogeniture be preferred by the Law of Nature; then can there be but one rightful King in all the world, and he the firſt-born from *Adam*; which no man can believe. *Object. 2.*

I anſwer, That though Primogeniture be preferred by the Law of Nature, and immutable by the will of Man; yet is not God ſubject thereunto, but before the Flood, he rejected *Cain*, though the firſt-born of *Adam*, *Anſw.*

and

and made him a Vagabond, and none of the Patriarchs. So in the first age after the Flood, God subjected *Canaan*, although the son of *Ham*, *Japhets* elder brother, to *Japhet*: And so did God prefer *Jacob* before *Esau*, and *Ephraim* before *Manasses*, and *Solomon* before *Adonijah*: Yet where and when God did not reveal himself to Man otherwise, was ever Primogeniture preferred. Nor can it in reason be expected, that God should be so cruel a Taskmaster to require subjection upon penalty of Damnation, if it were not evident to whom this subjection were due. It is sufficient that Subjects pay their obedience to him, against whose title no just or superior title can be taken. Yet is not this subjection always to be understood of active subjection; For no man is bound (Government being intended for mans preservation, not destruction) actually, so to submit to rightful Governors, that he be morally certain of destruction therefore: Yet ought every man rather to suffer death, then actually to renounce or resist rightful Governors, to whom by the Law of Nature they owe obedience.

Gen. 9. 27.

Quare.

8. But suppose there be such a succession from an Usurper, that not only the Heir to the Usurper, but all men in his Government were born Subjects to him and his Ancestors from whom he is descended; as in the time of *Henry 6.* when all men were born either in subjection to him, his Father or Grandfather, (who had no colour or title to the Crown) whether in such case may Subjects so born assist such a Prince against the right Heir? I say, I pray God avert the like from ever being again in the English Nation! 'Tis true, the right Heir hath a just title of war against such a Prince: but whether Subjects so born (their being so born, being no act of their will, but was caused by a higher cause, *viz.* the will of God) may actually assist him to whom they were so born in subjection, against him who hath the superior title, I leave to God and mens consciences.

Diversity.

9. But this *Quare* can only have reference to Subjects who are born in Hereditary Monarchies; for in Aristocracies and Democracies there neither is, or ever was any original right or power in them, but their Conventions do necessarily depend upon an antecedent act of them, or the major part of them, to meet at a certain time and place. Where therefore such Assemblies are dissolved *sine die*, they are totally dissolved, however this dissolution happens; nor does any man owe them obedience any longer, but his or their title who next possesseth, is good enough against them and all others who cannot make a superior or more just claim. Nor can this have any reference to men born in Elective Monarchies; for, the Election depending upon the wills of men, *viz.* the Electors, (who originally had no right of Election) any Possession brought in against such Election by the will of man, is title equivalent to it; nor do Subjects in conscience owe obedience but to him who is possest, or can make a superior claim by a true descent from him against whom no just title can be taken.

Wherein consists the liberty of the Subject.

10. *Bodin* in his Republique makes a *Quare*, Whether it were better for Subjects to be governed by few Laws, with a reservation in the breast of the Judge, or some special Court, to redress extraordinary abuses, which cannot be comprehended in the Laws; or so to multiply Laws, that no man should be punished, where he could evade the Laws? And determines for the former; and the reason he gives, is, That Laws, be they never so many, are finite, but mens actions are infinite; and therefore though never so many Laws be made, yet may men find evasions out of them to abuse and

wrong

wrong other men, whereby this multiplicity of Laws will rather ensnare other men, than avoid the end for which they were intended. It is a folly much incident to *Englishmen*, that they place not only Freedom in serving many Masters, but Liberty in many Laws. Let any man take a survey of the Statute-Laws and Ordinances made since *Henry* the Eighth his dissolution of Monasteries, to this year 1660. and see if they be not four times more than all the Acts made before, only to the liberty of the Lawyers Fees, for the ensnaring of the Subjects; it being no doubt the greatest liberty of the Subject to be governed by few Laws, and these the same in all places, if it were possible.

Of subjection of children to parents.

11. The power of Parents being from the law of nature, Childrens subjection to them is due from the law of nature. *Solon* having written the Athenian laws, being asked why he did decree no punishment upon him who should kill his Parent, answered, There was no man so detestable as to think to do such an act. He therefore did wisely not to make any law against that which was never heard of, lest by doing so, he should not so much forbid, as admonish Children to it. And what a curse did *Canaan* contract upon himself, for but discovering his Fathers nakedness? *Gen. 9. 25.* And no question, Gods blessings and cursings are never more efficaciously pronounced, than out of the mouths of Parents; And, *To honor thy father and mother*, is the first Precept to which there is a promise of reward annexed, *viz. That thy days may be long in the land, &c.*

Of servants to their masters.

12. Although the power of Masters over their Servants be created by positive humane laws; and therefore subjection of Servants to their Masters, is caused by humane laws: Yet does not this exclude the obedience and subjection which is due from Servants to their Masters by the law of nature, and Divine positive laws; but Divine laws do include the subjection due from Servants to their Masters, *in thesi* or general, and the laws of every Country, *ex hypothesi* or particular: As, *Thou shalt not steal*, is from the law of Nature; but that the doing of such a thing is Theft, depends upon the particular laws or usages of every Nation. And no question but Servants generally, when the Apostles wrote, were no other than Slaves, over whom their Masters had not only absolute dominion of whatsoever was theirs, but also power of life and death, and that by no consent or submission of theirs. And if such Servants ought to *count their Masters worthy of all honor*, how much more ought Servants to thank God, and willingly to serve and honor such Masters, who not only command over them not against their consents, but also command such things as they may easily perform?

1 Tim. 6. 1.

Of subjection to Ecclesiastical powers.

13. Although this subjection be last in expression, yet it is first in intention: For if this subjection or obedience had not been due, before any obedience to Temporal commands; how could the Primitive Christians have met in dens and caves, in daily Prayers, and Breaking of bread, whenas Temporal powers did not only not permit, but forbid it? Nor did God ever shew such terrible vengeance upon any disobedience and presumption, as he did upon *Corah, Dathan* and *Abiram, Num. 16.* and their Competitors, although their pretences were very fair (forsooth) *That all the multitude were holy, every one among them, and the Lord was among them, and Moses and Aaron did lift up themselves against the congregation of the Lord*; They, though none of the tribe of *Levi* nor separated persons, could offer sacrifice and burn incense to the Lord, as well as *Aaron* or any

Prieſt. And no doubt but ſpiritual crimes are in their kind much worſe and diſpleaſing to God, than carnal, whatſoever offenders do pretend: And let us ſee what manner of men theſe pretended Reformers are which teach otherwiſe, and conſent not to the wholſom words, even to the words of our Lord Jeſus Chriſt, and to the doctrine which is according to godlineſs;

1 Tim. 6. 3, 4, 5. *They are proud, knowing nothing, but doting about queſtions and ſtriſe of words, from whence cometh envy, ſtrife, railings, evil ſurmiſings, perverſe diſputings of men of corrupt minds and deſtitute of the truth, ſuppoſing that gain is godlineſs, from ſuch withdraw thy ſelf: O my ſoul, enter not into their ſecrets.*

Diverſity. 14. In all Humane Society, or Society which is created by the law of Nature, *viz.* of Supreme Powers and Subjects, of Husband and Wife, of Parents and Children, the relations are indiſſolvible only by God, in thoſe individual perſons in whom the offices are; nor can they be aliened, transferred either by any act of themſelves or any power elſe. All Society created by Humane laws, or Legal Society, is alienable not only by the act of God, and by the Laws which created it; for, *Unumquodque diſſolvi poteſt eo ligamine quo ligatum eſt:* But alſo by the act of the Maſter and Servant; for, *Omnis conſenſus tollit errorem.* Chriſtian Society does differ from either Humane or Legal; for though the cauſe of Chriſtian power be by Divine poſitive inſtitution, and therefore incommunicable or alienable; yet after it pleaſed God that Kings ſhould be nurſing fathers, and Queens nurſing mothers to his Church, the exerciſe, endowment, priviledges and immunities of Chriſtian power is of poſitive humane inſtitution. The obedience therefore or ſubjection due to them who have overſight over us in the Lord, is not formally due to ſuch Biſhops and Prieſts who have once had the overſight over us, but to ſuch Biſhops and Prieſts who are legally conſtituted to exerciſe the juriſdiction or function in ſuch Dioceſes or Pariſhes where they are ſo conſtituted; which exerciſe is alienable or transferrible, though not at the will of the Incumbent, yet at the will of Supreme powers, and legally at the will of the Donor.

Chap. II.

Of Inheritance and Succeſsion.

No Humane law can make a Royal heir. 1. No humane law, can create a humane right; *Jura ſanguinis nullo jure civili dirimi poſſint:* Nor is this right of ſucceſſion from Divine poſitive laws, but obſerved as well where Gods revelation of himſelf is not received, as where it is. And if according to the reſolution of all the moſt learned and reverend Judges in *Calvin's* Caſe, ſubjection is from no humane law, but from the law of nature, Then of neceſſity muſt Regal right and inheritance be from the law of nature; for no man ſuppoſeth ſubjection, where he does not preſuppoſe power. The Will therefore of *Henry* the Eight, where for want of iſſue of *Edward*, *Mary* and *Elizabeth*, he gives the Engliſh Monarchy to the iſſue of *Frances* and *Elianor*, daughters of *Mary* his younger ſiſter, before the right heirs of *Margaret* his eldeſt ſiſter wife of *James* the Fourth of *Scotland*, was void and not to be allowed; and ſo was that of *Edward* the Sixth, who did diſinherit his ſiſters *Mary* and *Elizabeth*,

Elizabeth, and gave the Crown to *Jane* daughter of *Frances* the French Queen aforeſaid by *Charles Brandon* Duke of *Suffolk*; and ſo were the Acts of Parliament made by *H.* 4. 5. and 6. which entailed the Crown upon their Heirs; ſo was the Acts of the laſt of *Henry* the 6. which entailed the Crown upon him, and the heirs males of his body, and ſo were the Acts of the firſt of *Rich.* 3. and *H.* 7. which entailed the Crown upon them and their heirs. Neither is ſucceſſion and inheritance of Crowns declared by any humane Law in the world that I know of, but only the pretended French *Salique* Law, which we ſhall examine afterwards.

None but God can make an Heire to a Crown.

2. None but God can make an Heire to a Crown; *ſolus Deus hæredem facere poteſt, non homo. Co. Lit. Sect.* 7. And this Heire which Sir *E. Co.* here ſpeaks of, is but heire in fee to Lands or Tenements, according to common Law or Cuſtom; if then only God can make ſuch an Heire, then ſure none but God can make an Heire, which makes humane Laws, and permits Cuſtomes.

None can inherit, not born in Matrimony. *Gen.* 22. 2.

3. It is not only humane Laws, which ſay a baſtard is *filius terræ, & quaſi nullius filius: Et qui ex damnato coitu naſcuntur, inter liberos non computentur*: but God calls *Iſaac Abrahams* only Son, although at the ſame time *Abraham* had his Son *Iſmael* by *Hagar*, his Handmaid or Concubine. *And* Abraham *gave all he had to* Iſaac, *but to the Sonns of the Concubins which* Abraham *had, he gave gifts. Gen.* 25. 5, 6. So though *Iſmael* were *Iſaacs* elder brother, yet in compariſon of *Iſaac* born in wedlock, God himſelf did not account him *Abrahams* Son. Nor can one inſtance be given, that ever by Gods either command or permiſſion, any born out of marriage did inherit. By the Law therefore of God, aswell as humane Law, none can inherit which are born out of matrimony.

The Iſſue male ſhall inherit before the Iſſue female in Royalty.

4. That which no humane Law preſcribes, and yet is obſerved by all men generally in all ages, is from the Law of Nature; But no humane Law preſcribes the male to inherit before the female in regality, yet it is obſerved by all men generally; therefore that the iſſue male ſhall inherit before the female in regality, is from the Law of Nature.

Of the Iſſue male, the firſt born is to be preferred.

5. If primogeniture had not been a ſacred thing, and inheritance annexed to it by the Law of Nature, then could not *Eſau* have been pronounced a prophane perſon for ſelling his birthright, *Heb.* 12. 16. although he did it to ſave his life, *Gen.* 25. 34. but being due by the Law of Nature, I ſay, *Eſau* by his ſale could not transfer it to *Jacob*; yet becauſe *Eſau* did deſpiſe it. *Gen.* 25. 34. it was juſt with God to transfer it to *Jacob*; neither can it be ſhewed any where in ſacred writ, but that alwaies primogeniture in royal deſcent, was a good title where God did not interpoſe.

Why only the King is ſaid to inherit and ſucceed, and Subjects do either inherit or ſucceed, but never both.

6. Only the King can inherit and ſucceed, becauſe his Royal capacity is affixed and inſeparable with his perſon. In the Oath therefore of Ligeance, Subjects ſwear to beare faith to the King, his Heirs and Succeſſors; but no Subject can both inherit and ſucceed, becauſe there is no ſucceſſion can be affixed to the perſon of any Subject, by vertue of inheritance. All Corporations therefore do not deſcend by inheritance, but are acquired, as they are nominated or elected in ſuch manner as is granted by the King or ſupream power.

How many waies hereditary Monarchies deſcend?

7. There are but two waies by which hereditary or ſucceſſive Monarchies do deſcend; the one is Lineal deſcent, the other Lineal, Agnatical, Cognatical or Collateral; or as we ſay, the one deſcends to the heire general,

the other to the heire male. This latter by vertue of a Salique law takes place only in *France*; we will therefore ſee what may be ſaid and objected againſt the former, and how the latter hath been obſerved in *France*, and of what Authority it is.

Gynococratia or inheritance of Women not unnatural, nor againſt the Law of God.

8. That cannot be againſt the Law of God, which he has owned and given a bleſſed preſident of; but that God has owned *Gynæcocraty*, and that in a great and miraculous delivery of his own people, is evident in *Deborah*; And that Women may inherit, when the daughters of *Zelophehad* made their plea for their inheritance, *Numb*, 27. They firſt pleaded negatively, *Our Father was not of the company of them that gathered themſelves againſt the Lord in the company of Corah* (which is a plain argument that rebellious Subjects have no property againſt ſupream powers, but forfeit their goods aſwell as lives, for God ſaies *ver.* 7. the daughters of *Zelophehad* ſpake right;) *why ſhould the name of our father be done away from his family becauſe he has no Son?* And God himſelf ſaies, *ver.* 8, 9. 10. *If a man dye and have no Son, then ſhall the inheritance paſs to the daughter, and if he have no daughter, then ſhall the inheritance go to his brethren, and if he have no brethren, then ye ſhall give the inheritance unto his fathers brethren, &c.* And that inheriting by the daughter when there is no Son, in *Britain* (conſonant to the Law of God) is as old as any record we can find; when *Voadicea* led the *Britans* againſt the *Romans*, it was alwaies a thing obſerved among them. *Neque enim ſexum in imperiis diſcernunt: Tacit. Lip. in vita Agric.* 457.

Wherein Regality differs in deſcent from Eſtates by Civil Laws.

9. Although *Gynæcocraty* be neither againſt the divine Law of God or Nature; yet it is only to be underſtood, that in regality the female ſhall inherit when ſhe is the eldeſt ſiſter, and lineally deſcended from the Anceſtor which has no Heir male of his body lawfully begotten. For in Regality *poſſeſsio fratris non facit ſororem eſſe heredem.* But if a King or Queen by inheritance have iſſue by ſeveral venters or extractions, and by the latter a Son who does inherit, who dyes without iſſue; yet ſhall the Heir male deſcended from the Father, although but of half blood to him, inherit before his ſiſter; and the elder ſiſter deſcended from the Father, ſhall inherit before his ſiſter although ſhe be of whole blood to him, from the reaſon aforeſaid, and therefore Queen *Mary* and *Eliz.* although but of half blood to *Ed.* the *6.* did inherit before the Queen of *Scots*, or the iſſue of the Queen Dowager of *France* by the Duke of *Suffolk*, *Charles Brandon*, although they were of whole blood to him; and thus much does Sir *Ed. Coke* teſtifie.

Com. Lit. cap. 1. Sect. 8. p. 15.

First Charge.

10 Before we examine the authority and obſervance of the *Salique* Law, let us ſee the heinous charge which Monſieur *Bodin* brings againſt *Gynæcocatry*, *cap. 5. lib. 6. pag. 738. de rep.* He ſays, *Gynæcocraty is inimicitious to the laws of Nature, which gives prudence, ſtrength, magnanimity of mind, force to command, to Men, takes them away from Women.*

Bodins charge and incommodities againſt *Gynæcocatry.*

Anſw.

A fine general charge, this! If I can form an argument out of it, this is it. All Government wherein prudence, ſtrength, magnanimity &c. do not command, is inimicitious to the Laws of Nature: But in Gynæcocraty neither prudence &c. do command; Therefore Gynæcocraty is inimicitious to the Laws of Nature. Now the Major propoſition requiring ſtrength, prudence, and magnanimity in command, the Concluſion will be as ſtrong againſt all Government, as Gynæcocraty; for he hath not defined what ſtrength, prudence &c. is, nor who ſhall be Judge what it is; and ſo any man who will but deny that there is ſtrength, prudence, &c. in the Gover-

nor,

nor, may by the Laws of Nature not obey, nay it is againſt the Laws of Nature to obey. But in what caſe are all Pupil Kings? Sure the man intended to make good *Pepins* and *Hugh Capets* Titles from this Propoſition, againſt *Childerick* and *Charls* of *Lorrain*. But that which is moſt monſtrous and impious, is, that it is inimicitious to the Laws of Nature for any Child to obey and honor his Mother, becauſe ſhe hath not prudence, magnanimity, and force of command.

Second charge. *The Law of God not only took from Women the Government of Commonwealths, but alſo of Families, whenas he deſervedly ſubjected them to the command of their Husbands.* The argument out of this is: Whom God hath ſubjected to the command of their Husbands, cannot by the Law of God command in Families: But God hath ſubjected Women to the command of their Husbands; Therefore by the Law of God Women cannot command in Families.

Anſw. Yes, ſuch Women as never were married nor ſubject to their Husbands, may, granting the Major propoſition. But I deny the Major propoſition; for ſure it is no where againſt the Law of God, for a Widow to govern her Family.

Third charge. *As often as God teſtifies that he will take terrible vengeance againſt the enemies of his Name, he threatens them to be ſubject to commands and laws of Women*; (for this he cites *Iſa.*8. although I cannot find any ſuch thing there) *as if that were the utmoſt of evils, and extremity of calamities.*

Anſw. That this is falſe, is evident by Gods miraculous delivery of the children of Iſrael by the leading and command of *Deborah*. Beſides, how can God command Women to command and give Laws, if it be againſt the Law of Nature? Which is all one to ſay, God does command againſt the Law of Nature, that is, his own Law.

Fourth charge. *The Roman Laws did ſeclude Women from all Civil offices, and Publique employments.*

Anſw. But though the *Roman* Laws did forbid it, yet if the Laws of *France* did not allow it, how came *Blanch* the wife of *Lewis* the Eighth, *Katherine de Medici* wife of *Henry* the Second, and *Mary de Medici* wife of *Henry* the Fourth, and *Anne* the Mother of the preſent King, to manage the Regencie of *France*, as imperiouſly during the minority of their Sons, as if they had been abſolute Princes?

Fifth charge. *That in Gynarchy the Wife is not ſubject, but ſuperior to her Husband.*

Anſw. So heavy bodies will, againſt their nature, aſcend to ſupply a Vacuity.

Sixth charge. His ſixth charge is an Invective againſt *Vaſti, Joan* of *Naples*, called the Wolf, *Athaliah, Cleopatra, Zenobia, Hirene*, (As indeed, telling of ſtories is uſually the greateſt part of his reaſoning; and that he will do ſo amply, that *Scaliger* juſtly reprehends him with making, not writing Hiſtories.) Now if I ſhould fall into the commendation of *Ruth, Heſter, Judith, Deborah, &c.* I am quit with him. It is true indeed, that 'tis a great bleſſing to any Nation, that God gives them a Maſculine Heir, endued with all thoſe qualities he ſpeaks of: But when God doth give a Child, (which he pronounceth a woe to that Nation, *Eccleſ.* 10.16.) or a Female, Subjects muſt be content, and ſubmit themſelves to Gods pleaſure: For in going about to alter what God hath done, they will make themſelves in a much more woful condition; Nor could that be a judgment of God upon a Nation, to give

Anſw.

Fools,

Fools, and Children, or Women for Heirs, if Subjects at pleaſure might alter them and ſet up others in their ſtead.

The etymologie of the *Salique* Law.

11. The *Salique* Law took its name either from the Country *Salia*, or the River *Sal*, or from contraction of *Si aliqua*, ſo often mentioned in the Law.

A ſhort view of the authority and obſervance of the *Salique* Law.

12. There are three things obſervable in the *Salique* Law; the authority of it, the eternity of it, and the reaſon of it. For the authority of it, it was made by the Lord knows whom; for the eternity of it, it ſhall end the Lord knows when; and for the reaſon, *De terra vero Salica nulla portio hæreditatis mulieri veniat, ſed ad virilem ſexum, tota terræ hæreditas perveniat. Bodin. de rep. p.745.*

The authority of it by *D'Avila.*

13. For the authority of it, the learned do not agree by whom it was made, nor whether any French King ever made any ſuch, or not. *D'avila* in the beginning of the firſt book of the Civil wars in *France*, recites the moſt probable conjecture, which is, That the *French* when they left their habitation to ſeek freſh quarters, ſate down at the river *Sala*, (which divides *Miſnia* Weſtward from *Turingia*) and there forſooth did agree to chooſe themſelves a King, and did make Conſtitutions which ſhould be fundamental and unalterable ever after; and thoſe Conſtitutions being made at the river *Sala*, are called *Salique* Laws.

How probable.

14. There is no ſtory of *Guy of Warwick*, *Amadis de Gaule*, or the *Dun Cows rib*, but is of as much authority and probability as this. For, can it be imagined that a company of Rogues and Thieves, going to rob and thieve at *Gads-hill*, ſhould agree at *Greenwich* to make unalterable Laws for their government and ſucceſſion, before they were poſſeſſed of any thing? and what they make their Laws of, is nothing but what they ſhall rob and cheat other men of.

Bodin's opinion.

15. But *Bodin* will not undertake to tell by whom, or when it was made, (it is ſtrange you will ſay, that making up his diſcourſe almoſt of Hiſtories, he hath nothing to ſay for this) he only ſaies it is not new as many men think, but engraven in the moſt ancient tables of the *Salians*, in theſe words, *De terra vero ſalica &c. ut ſupra*: So *Bodin* names neither by whom, nor when, this *Salique* Law was made. Did ever man infer ſo fondly, that becauſe the *Salian* women did not inherit, therefore the *French* Crown cannot deſcend to women? But mark now if this be a conſequence: The women of the Land of *Salia* do not inherit, and therefore no female can inherit the *French* Monarchy: then if the men of the Land of *Salia*, will alter this conſtitution, the deſcent of the *French* Monarchy is altered by an Act of the men of *Salia*; for, *Ceſſante ratione legis, ceſſat lex*; and *ſublata cauſa, tollitur effectus.* In their conteſt with the Popes, the Kings of *France* ſay, they hold their Crown of God; whereas if *Bodin* ſays true, they hold it by a Law written in the Tables of the *Salians*. I can ſay no more for the authority of this Law, unleſs I ſhould repeat the ſame things again, out of *De Serres* and other learned French Hiſtorians.

Para. 12.

The eternity of it.

16. *This Law cannot be altered by the King and Eſtates general.* I had thought that only the Laws of Nature had been unalterable. It is a rule, that *Unumquodque diſſolvi poteſt eo ligamine quo ligatum eſt*: And if this *Salique* Law be a conſtitution of Man, by that power which made it a conſtitution, by that power it may be altered.

The reaſon of it.

17. *De terra vero Salica nulla portio hæreditatis mulieri veniat, ſed ad virilem ſexum*

ſexum tota terræ hereditas perveniat: Now let any man that is in his wits, or underſtands any thing of the nature of a Law, judge whether there be any ſhadow of reaſon in this; For, *a Law is the rule or direction of him who does govern, to be obſerved by them who are governed.* How then can the Crown of *France* deſcend according to the cuſtoms of the *Salians*, if the *French* Crown be not ſubject to the men of *Salia*, and they had given the King and his ſucceſſors this unalterable Law of not deſcending to the female? but where this country *Salia* ſhould be, I could never find ſo much as the name in any Geographer or Hiſtorian, ancient or modern. Sure the *Romans*, ſo curious in ſearching and deſcribing of Countries would not have overſeen it, eſpecially the Emperor *Julian*, warring ſo long in thoſe parts of *Germany*, not above ſixty years before they ſuppoſe *Pharameund* departs out of *Salia*, for to ſeek better quarters in *Gaule*.

18. The two main parts of the *Salique* Law are, *That the Crown ſhall deſcend to the next heire male, and if the heire be an infant, that the next Prince of the blood who is a Major, ſhall during his minority be his Guardian, and Regent.* Yet *Bodin* is fearful that the *Salique* Law was not bar enough againſt our *Ed.* the third (being never before heard of, ſaies *Hall n*) he ſaies, *pag.* 745. Whenas the controverſie concerning the Crown of *France*, was between *Philip* Earl of *Valoys* and *Ed.* the third King of *England*, *Philip* defended the *Salique* Law by the *Voconian*, which ordained by the conſent of the Fathes and Princes, that in that controverſie no man ſhould uſe the authority of forrain Lawes, but every one ſhould ſtudy for his profit, the *Salique* Law. But when the queſtion was 1563, whether *Charles* the ninth were a Major at fourteen years of Age currant or compleat, the Parliament of *Paris* would have taken upon them to decide it, when *Charles* ſends them word, *I do not mean that you ſhould deale in any thing, but with the adminiſtration of good and ſpeedie juſtice to my ſubjects; underſtand hereafter that you are not confirmed in your offices by me to be my Tutors or Protectors of my Realm, nor Governors of my City of* Paris, *as hitherto you have perſwaded your ſelves.* Beſides, *Charles* the ſeventh *Anno* 1420. was adjudged to baniſhment, and unworthy to ſucceed in any of the ſignories of *France* by all the Courts of the Parliament of *Paris*. And ſo about 7 years ſince was the Prince of *Condi*; and ſo was *Henry* the forth by all the three Eſtates at the general aſſembly at *Bloys*, *Anno.* 1588. So that is is evident that this immutable Law, is not ſo inviolably kept by the *French* themſelves, when it does not ſerve their turn. How ſhould the *Voconion* Law oblige againſt *Ed.* the third, and not the Acts of Parliament of *Paris*, and general Aſſembly at *Blois*, oblige againſt *Charles* the ſeventh, and *Henry* the fourth? for, *ubi eadem eſt ratio, ibi idem eſt jus.*

The two main parts of the *Salique* Law.

19. There cannot be a more imprudent act, then to make any one Ward to him who is his next heire, eſpecially to a Crown, which frees any one from all attainders; what then can be more imprudent then this part of the *Salique* Law, which gives the pupil King into the hands of the next heire, who murthering him, makes way for himſelf to the Kingſhip? By our Country Laws, no man could be Guardian to the perſon of a Ward, but the next of blood to whom the inheritance could not deſcend, But this part of the eternal Law has not of late been obſerved by the *French* Nation, whereas the contrary hath been, in the regencie of the Queen mothers, *Blanch*, the mother of *St. Lewis*, of *Francis* the ſecond, *Charles* the ninth, *Lewis* the thirteenth, and *Lewis* the fourteenth.

The imprudence of the *Salique* Law.

20. Neither

It has been ill observed by the *French.*

20. Neither have the *French* better observed the other part of the *Salique* Law, for the descending of the Crown to the heirs male; for, *Pepin* having put King *Childerick* into a Monastery, had not any colour of title, but as he was chosen by the Parliament of *Paris*; so that it seems the Parliament of *Paris* may do what the King and general Assembly cannot, and alter the most fundamental constitutions of *France*, which forsooth at other times are immutable; and *Hugh Capet* to make his title good against *Charles* of *Lorrain*, the right Masculine heire of *Pepin*, did derive his pedigree from one of the daughters of *Charlemain* son of *Pepin*; Nor could *Lewis* the ninth (a most religious Prince) be resolved in conscience, till he was satisfied, that by his Grandmothers side he was descended from the right heirs of *Charles* of *Lorrain*. But I wonder with what face these *Frenchmen* can urge the *Salique* Law against others, and yet practise the contrary themselves; For *Charles* the eight having married *Anne* the Dutchess of *Brittain* (and by that title possessed the Dutchy) by whom he had *Claude*, married to *Francis* the first, who had issue *Henry* the second, who had issue *Francis* the second, *Charles* the ninth, *Henry* the third and *Hercules*, *Elizabeth* married to *Philip* the second of *Spain*, and *Margaret* married to *Henry* the fourth. Now *Francis*, *Charles*, *Henry* and *Hercules* dying without issue legitimate, I would know how against the *Salique* Law *Charles* and his posterity should have a title to *Britain*, and yet King *Philip* and his posterity be debarred of it by vertue of this pretended *Salique* Law.

Chap. III.

Of the Municipal Laws of England, *before* 1640.

Of Temporal Laws, and incidently of the Municipal Laws of this Nation.

1. Temporal or Secular Laws are made to preserve men so long as they live in this world, in unity and peace one with another; and these do not bind in conscience only, but injoyn corporal and pecuniary mulcts for not observance, or transgressing them. The Municipal Laws of this Kingdom are either the Common Law, which are general usages of that long continuance, that they have quite lost their prime institution. That they were not brought in by the Conqueror, is most evident, for the Conqueror swore to observe the good approved and antient Laws of this Kingdom; and that the Subjects might the better observe their duty, and the Conquerors Oath, he caused twelve the most discreet; and wise men in every shire throughout all *England* to be sworn before himself, that without swerving either *ad dextram*, or *ad sinistram*, they should declare the integrity of their Laws, without concealing, adding, or in any sort varying from the truth; and *Aldred* the Archbishop that crowned him, and *Hugh* the Bishop of *London*, by the Kings commandement wrote that which the Jurats had delivered, and these by Publick Proclamation he declared to be authentick, and under grievous punishment to be inviolably observed.

Common Law or Generall usage.

Proem 8. part of Sir Ed. Cokes *Reports*

Preface 3. report.

And that 441 years before the incarnation of Christ, *Mulmutius*, of some called *Dunvallo* M. of some *Devehant*, did write two Books of the Laws of the *Britans*, the one called *Statuta Municipalia*, and the other *Leges judiciaria*,

riæ, which is as much as to ſay, the Statute-Law, and Common-Law. And 356 years before our Saviour, *Mercia Proba* Queen, and wife of King *Gwintelin*, wrote a book of the Laws of *England* in the Britiſh tongue, calling it *Marchenleg*. King *Alfred*, or King *Alured*, King of the Weſt-Saxons, 871 years after Chriſt, wrote a book of the Laws of *England*, calling the ſame, *Breviarum quoddam quod compoſuit ex diverſis legibus Trojanorum, Græcorum, Britanorum, Saxonum, & Danorum.*

In the year after our Saviour 653. *Sigabert* or *Sigisbert*, *Orientalium Anglorum Rex*, wrote a book, calling it, *Legum inſtituta*. King *Edward* of that name the third before the Conqueſt, *ex immenſa legum congerie, quas Britanni, Romani, Angli condiderunt, optima quæque ſelegit, ac in unam coegit quam vocari voluit Communem legem.* But whether theſe latter were the Laws which are now uſed in *England*, under correction may be queſtion made, becauſe the Authorities cited are from ſuch obſcure and uncertain Authors, that no great credit is to be given to them; nor are thoſe Books (except *Alfreds* and *Edwards*, which are obſolete and out of uſe with us, and ſo have been theſe 600 years) any where to be found, whereby it may appear that they have any affinity with the Common-Law. But it does moſt certainly appear out of moſt authentical Records, that time out of mind, before the Conqueſt, there had been Sheriffs, for the Writ of Aſſiſe, and every other Original Writ, to whom they were directed, except to the Coroner in ſpecial caſes, who ſtands in place of the Sheriff; and for Trials by the Oath of Twelve men; and that the Writs of Aſſiſe and other Original Writs were retornable into the Kings Courts, and that there had been a Court of Chancery for all Original Writs to iſſue out and none other; and that thoſe Mannors that were in the hands of S. *Edward* the Confeſſor, are to this day called Ancient Demeſne. All which does more copiouſly and fully appear in this Proeme to the Third Part of the *Reports*. And that the Chancery, Kings Bench, Common Pleas, the Exchequer, be all the Kings Courts, and have been time out of memory of man, ſo as no man knows which of them is antienteſt. *Proem, Rep.* 8.

Afterward in the Proeme to the Ninth Part of his *Reports*, out of the *Mirror of Juſtices*, which treats how the Land was governed almoſt twelve hundred years ſince, having ſpoken of the Courts of Parliament, Chancery, Kings Bench, Common Pleas, and the Exchequer, he deſcends to the *Juſticiarii Itinerantes*, or Juſtices in Eire: "The Kings do right to all men "by their Juſtices, Commiſſioners itinerant, aſſigned to have Conuſance "of all Pleas. In aid of ſuch Eires, the Sheriffs Turns and View of "Frankpledges are neceſſary, &c. Juſtices Itinerant, *ſec.* 6.

Then he treateth of the Sheriffs Turn; "That the Sheriffs, of antient "Ordinance, do hold general Aſſemblies twice a year in every Hundred, "whither all the Freeholders within the Hundred are bound to come by "the ſervice of their Feifs (or Fees) that is to ſay, once after Michaelmas, "and another time after Eaſter, &c. Sheriffs Turn, *ſec.* 7.

"Leets or Courts of View of Frankpledge, are Aſſemblies ordained "once a year, not only of Freeholders, but of all in the Hundred, as well "Denizens as others (except Archbiſhops, Biſhops, Abbots, Priors, and "all Religious people and Clerks, Earls, Barons, Knights, Married women, "Perſons dumb and deaf, diſeaſed, Baſtards and Lepers, and thoſe that are "Deciners elſwhere) to enquire of the offences perſonal, and of all the Leets or view of Frankpledge, *ſec.* 8.

"circumstances, of offences done in those Hundreds, of the wrong done "by the Kings or Queens ministers, and of the wrong done to the King "and the Commonalty. But this ought not to be done by Bondmen or "Women, but by the Oath of Twelve Freemen.

County-court *sec.* 9. "The *County-Court*: which the Sheriffs hold from moneth to moneth, "or from five weeks to five weeks, according to the greatness or largeness "of the County.

Court-Baron, &c. *sec.* 10. "Of *Court-Barons* and *Hundred-Courts*.

"The other mean Courts, are the Courts of every Lord of the Fee, &c.

Pipowders, *sec.* 11. "Courts of *Pipowders*. And that from day to day speedy Justice be "done to Strangers in Fairs and Markets, as of Pipowders, according to "the Law of Merchants.

Admiralty, *sec.* 12. "Court of *Admiralty*. The King hath soveraign jurisdiction upon "the Sea.

Courts-Forest *sec.* 13. "Courts of the *Forrest*. The Kings Ministers of his Forrests have "power by authority of their office to swear men, without the Kings Writ, "for safeguard of the peace, and the Kings right, and the common good, &c.

"He treats of the Professors of the Law, as Counters, who are Serjeants "and Pleaders. Of Attornies, Of Ministers of Justice, as Viscounts, Coro- "ners, Escheators, Bailiffs of Hundreds, &c. And also by the antient Kings, "Coroners were ordained in every County, and Sheriffs to keep the Peace "when the Earls were absent from their charges, and Bailiffs in lieu of the "Hundredors, &c.

"Of the Prerogatives of the King; as of Deodands, Alienation to "Aliens, Treasure found, Wreck, Waif, Estray, Chattels of Felons and "Fugitives, Honors, Hundreds, Soakes, Gaoles, Forrests, chief Cities, "chief Ports of the Sea, great Manors. These held the first Kings as their "right; and of the residue of the Land did enfeoff the Earls, Barons, Knights, "Serjeants and others, to hold of the King by Services, provided and or- "dained for defence of the Realm. It was ordained, that the Knights Fee "should come to the eldest by succession of heritage; and that Socage Fee "should be partable between the Male-children, and that the Liege-Lords "should have the Marriage.

He treateth in the *first Chapter*, of Crimes, and their divisions; of the crime of Majesty, of Fausonnery, of Treason, of Burning, of Homicide, of Felony, of Burglary, of Rape, &c. In the *second*, of Actions, of Judges, of Actors, &c. In the *third*, of Exceptions dilatory and peremptory, that is, Pleas to the Writ, and in Bar, &c. of Trial by Juries and by Battel, of Attaints, of Challenges, of Fines, &c. In the *fourth*, of Judgments, and therein of Jurisdiction, of Process in criminal causes, and in Actions real, personal, and mixt. So as in this Mirror you may perfectly and truly discern the whole Body of the Common Laws of *England*. Thus far Sir *Edward Coke*.

Mr. *Lambert*, in his unfolding the difficult things and words in his translation of the *Saxon* Laws, says, King *Alured* when he had made a League with *Guthrun* the *Dane*, having followed the most prudent counsel given by *Jethro* to *Moses*, first divided *England in Satrapias, Centurias, & Decurias*. He called *Satrapiam* Scype, a ſcypan, which signifies to divide; He called *Centuriam* hundpeo, and *Decuriam* teoþunz or tienmantale, that is, a company of Ten men; and by those names they are called to this day.

And

And that no man might be ignorant, the *Decuria* did consist of Ten men, whereof all of them were pledges that every one should be forth-coming to any Action in Law; and if any one did any damage, the other were bound to make it good; and from hence the other nine were called ꝑneoborgh, that is, Free-pledges: we in the Pleas of Courts call them *Francos plegios*. The tenth man teoþungmon called the *Decurio* or Tithingman, by which name he is most known to the Eastern English, at this day: Others call him tienheofod; others call him ꝑneoborhealdor, that is, the first or chief Surety or Pledge: The *Kentish-men* call him *Borsholder* corruptly for borhealdor, that is, the first Surety. *Centuria*, or a Hundred, was made up of ten *Decuria's*, as one Hundred is made up of ten times ten. This (*viz.* Hundred) the men beyond *Trent* called by another name, not unknown to the common people, ꝑapentac Wapentac. *Alured* then further ordained, That every man of free condition should be enrolled in some Hundred, and be conjoined into some Ten-men company: That of lesser businesses, the Decurions or Court-Leet might judge; and if any weightier matter were, it should be deferred to the Hundred or County-Court. Lastly, that the Alderman and Sheriff (I take it, he calls them *Senator & Præpositus*) should compound the most difficult Suits and of greatest moment, in that frequent Convention from all parts of the Shire or County. And what the manner of judging was, King *Etheldred* in the fourth Chapter of his Laws (which he enacted in a full Senate or Parliament at *Vanatnigum* ꝑuðerdoc *Woodstock*) expounds almost in these very words: "In all and every Hundred let there be Assemblies, and that "Twelve elderly men of free condition, together with the Sheriff (*Præ-*"*posito*) be sworne, that they will not condemn the Innocent, or absolve "the Guilty.

So that Mr. *Lambert* seems to be of opinion, that the Common-Law had its origination from King *Alured* or *Alfred*, who was King of all *England*, and a most victorious, pious, prudent, and glorious Monarch, about the year of our Lord 890. And from a most deplorable condition, by reason of the Danish invasion and robbery, reduced it to a most quiet calm, and laid that foundation, upon which the body of the Common-Law is since builded. But whosoever was the first Founder and Establisher of them, certain it is they were antient, and Laws which better suit to the nature and disposition of *English-men*, then any other that are, or ever were in the world, would do.

2. As those general Usages or Customs which are generally observed, are called the Common-Law; so there are almost infinite particular Usages, Prescriptions and Customs in several parts of this Nation, which are observed as Laws by the Inhabitants of those places, and to all intents and purposes have the effect of Laws. Particular Usages.

3. Statute-Laws are Acts of Parliament, which are neither general nor particular Customs, but are Laws made by the Kings of this Land in Parliament, upon sundry and diverse occasions, according to the then occasions, as they represented themselves. For although all innovations are dangerous; and therefore if it were possible, no doubt it were best that humane Laws (as the Laws of Nature) might be immutable and eternal; but as God hath created all things transitory, and nothing in this world the same the next subsequent minute, that it was before; and therefore the state of Statute-Law.

Humane affairs being every day variable, and putting on a new face to morrow, which they had not neither to day, nor yesterday; which cannot be certainly foreseen by any man, or men, no more then any Master of a Ship can foresee what winds will blow to morrow, or next day; or whether it will be serene, or stormy weather, whether deep or Rockey Seas. Yet if no prudent Mariner will venture himself, and those under his command to Sea, without sufficient provision against all the contingencies which may happen, and be prevented; Then sure no man or men not vainly blinded with ambition, will undertake to manage the Government of a Nation without sufficient means to protect themselves and Subjects from all future storms and confusions, which may either arise from within the Nation, or be caused from without. Yet will it not follow that every day there should be new Laws made, for *Nihil semel perfectum & inventum*, there is nothing which is perfect so soon as begun; and many mischiefs and inconveniencies may be begun, and yet be prevented before they can be brought to perfection. But then it must be presupposed that there may be remedies used, which must of necessity be, that there be a present and coercive power in being, which may suppress, and dissolve those mischiefes and inconveniences, by making new Laws, if the old ones will not remedy them; and this is no new thing, but is, and alwaies was, in all governments that ever were, whether Monarchy, Aristocracy, or Democracy.

Of what parts a Parliament is compounded. *Inst. 4. pag. 1.*

A Parliament is a Politick body compounded of Heterogenial or dissimilar parts, *viz.* the King, the Lords spiritual and temporal, in one distinct house, and of a house of Commons another distinct house.

What creates the Lords house.

Since there has been so much contest about the power and jurisdiction and cause of Parliament; and since it being compounded of unlike parts, and some of these unlike parts, nay pieces of those parts have assumed the name of Parliament, We will examine all the parts of it, and see whether it be not all made and created by the King, and into him only can be ultimately resolved, he being *principium, caput, & finis* of it.

First, For the Lords spiritual they are all parts of the Lords house, and sit there by succession in respect of their Counties or Baronies, parcell of their Bishopricks; but all Bishopricks were originally of the Kings foundation and donative *per traditionem baculi* (*viz.* the crosier) *& annuli* (*viz.* the ring) whereby he was married to the Church. King *Henry* the first being requested by the Bishop of *Rome* to make them Eligible, refused it; but King *John* by his Charter bearing date 5 *Iunii, an.* 17. granted that the Bishopricks should be Eligible; so that the foundation, donation, and election to Bishopricks was only and immediately caused by the King: and in this capacity by virtue of the Kings Writ out of the Court of Chancery, does every Bishop sit as a member of the upper house of Parliament. So that the Lords spiritual did immediately hold their Bishopricks of the King; and were members of the upper house only by vertue of the Kings Writ.

Inst. 4 par. 1.

Com. Lit. Sect. 648. pag. 344.

Inst. 4 par. 1. 4.

Secondly, That the Lords Temporal are created immediately by the King, is so manifest that I think no man will question it, and that every Temporal Lord is impowred to sit as a Member of the Lords house by vertue of the Kings Writ issuable *ex debito justitiæ*, out of the Chancery. *See Inst. 4. part. pag. 1. & 4.*

All the Judges of the Realm, Barons of the Exchequers, of the Coif, the Kings learned Council, and the *Civilians* Masters of the Chancery, all called to give their assistance and attendance in the Upper house of Parliament, but have no voices in Parliament. How their Writs differ from the Barons, see *Inst.* 4. *part, page* 4.

Temporal Assistants of the Lords house.

In every Writ of Summons to the Bishops, there is a clause requiring them to summon these persons to appear personally at the Parliament, which is in these words: *Premonientes Decanum & Capitulum Ecclesiæ vestræ Norwicensis, ac Archidiaconos totumque Clerum vestræ Diocesis, quod iidem Decani & Archidiaconi in propriis personis suis, ad dictum Capitulum per annum, idemque Clerus per duos Procuratores idoneos plenam & sufficientem potestatem ab ipsis Capitulo & Clero divisim habentes prædict. die & loco personaliter interssint ad consciendum his quæ tunc ibidem de communi Concilio dicti Regni nostri, Divina favente clementia, contigerit ordinari.* So that not only the Lords Spiritual and Temporal, but their Assistants, are only created by the Kings Writ, or immediately by the Kings authority.

Spiritual Assistants, or *Procuratores Cleri.*

But since there is so much contest about the House of Commons, and men say they represent the Freeborn people of this Nation, and are the Supreme Authority of the Nation: We will therefore enquire into the cause, and see what may be the Freeborn people, and whether a House of Commons, as it now stands, can be their Representative, and whether being their Representative, they may be the Supreme Authority of this Nation?

The House of Commons are not the Representatives of the Free people of the Nation.

First, What are the People? If any man had said the people of *Rome*, or the people of *Athens*, or the people of *Carthage*, &c. a man had understood them, and only them of *Rome, Athens*, or *Carthage*, &c. who were *civitate donati*. But in *England* the case is much otherwise; for with us there is no *civitate donatus* in one more then another, but all men are alike born free, and so by consequence every man as a freeborn man of *England* has as much right to his freedom one man as another. I say therefore, if every man of *England* has not a like vote and power in electing Members for the House of Commons, then cannot the House of Commons be the Representative of the Nation; for, *Plus valet contemptus unius, quam consensus omnium.* But it is most manifestly evident, that the House of Commons are not elected by the equal consent of the freeborn people of *England*, (for not only two parts of three have not Forty shillings a year, yet are as freeborn as they who have, and as liable to penalty for transgressing Laws made in Parliament, as they who do elect; but many men have double votes in the election, in Corporations where they send Burgesses, and yet have like power with the Forty-shillings-men in electing a Knight of the Shire; and such a place as *Rising-Chase* and *Old Sarum, &c.* have a like power in this House with the County of *York*; and the Bishoprick of *Durham* sends none at all: So that it may be rather termed a Representative of the Free Corporations, then a Representative of the Freeborn people of *England.*) The House of Commons therefore cannot be a Representative of the Freeborn people of *England.*

But suppose them the Representatives of the Freeborn people of this Nation, yet cannot they be the Supreme Authority of it; for no power can act beyond the power of its being. I say therefore, that no Representative can be supreme, or superior to the cause of its being: The House of Commons

Nor the Supreme Authority of the Nation.

Commons therefore cannot be (granting it the Representative of the Freeborn people of this Nation) the Supreme Authority of the Nation.

But if the house of Commons be not sent by the people and their Representatives; Who creates them, and by what right do they make a house of Commons?

Of what sorts of men the house of Commons is compounded.

Before we answer this *Quare*, wee will see of what sorts of men a house of Commons is compounded. A house of Commons is compounded of three sorts of men, *viz.* Knights of Counties, Citizens sent by Cities, and Burgesses of Corporations: Barons of the Cinque Ports are the same thing differently expressed with Burgesses of Corporations. Now that all Cities, Burroughs, Corporations, and Cinque Ports, are not so *jure naturali*, nor by any inherent birthright, but from their Charter, which is nothing else but the Kings grant, is so manifest, that I think no man in his wits will deny. But all Cities and Corporations are not alike in priviledges, but more or less as they are impowred by their Charter or Grant of the King. Some Corporations have Liberties & Priviledges, and are impowred to send Burgesses; others have Liberties and Priviledges, but not qualified to send Burgesses; nay some Cities have Liberties and Priviledges, but not endewed with this right of having Representative in the house of Commons, as the Cities of *Durham* and *Ely*.

What creates the house of Commons.

And as neither Cities nor Burroughs are endewed with these their Liberties and Priviledges by any inherent birthright; so neither are the Counties nor Inhabitants endewed with any right of sending Knights of their Counties by any inherent birthright; for then had all the Counties a like right one as another, and all the Inhabitans a like vote; and they might create representatives as often as they should see occasion. But all these are most evidently false; for we have shewed before, that not only the division of this Nation into Counties was an act of the Kings, but all Counties are not alike endewed with this Priviledge, some Counties in *Wales* sending but one, and the County of *Durham* none at all. Nor have all men a like vote in electing (and yet as much subject to Laws made in Parliament as other men) but men only who have 40 *s.* yearly freehold rent; nor can these 40 *s.* a year men, when they will, send their representatives. What then does impower these to send representatives? Why let *Sir Ed. Coke* say,

Inst. 4. p. 1.

Knights of Shires, Citizens of Cities, and Burgesses of Burroughs, are respectively elected by the Counties, Cities and Burroughs, by force of the

pag. 28.

Kings Writ. So that the Kings Writ is the first and efficient cause of the house of Commons, as well of the Knights, as Citizens and Burgesses; the Commons cannot begin nor be dissolved, without the King in person or representation.

Annot.

If then Rebellion be as the sin of Witchcraft, as the Holy Ghost saies; and if *crimen læsa Majestatis* be the highest crime and impiety, as all Lawyers hold; and if Gratitude be one the chief of all Moral virtues, as all men hold, for, *si ingratum dixeris, omnia dixeris*, no man who is an ingrateful man, but has rendred himself as if he had committed all manner of wickedness: How impious then is it for men, only from the Kings grace endewed with this high favor, to convert it in opposition and derogation of that power and person from whence they originally received it! But they say, if the Commons did it, then was it done by the people, and so just and not to be questioned,

as

as if the people were not a thing to be governed; and all as much ſubject to the King and Laws as every one; or that a thing juſt or unjuſt in it ſelf, were more juſt or unjuſt, becauſe more or fewer did it. Will any man ſay, the crucifying of our Saviour was therefore juſt, becauſe many of the *Jews* did it? or that a rout or riot is therefore lawful, becauſe done by many men? or that it is not paricide or regicide, if many Sons and Subjects kill their Parents, and King?

The Parliament cannot begin but by the King.

As all the Members of both houſes are created by the King, ſo cannot theſe Members be formed into a body but by the King, either by his Royal preſence or repreſentation. By repreſentation two waies; either by a Guardian of *England* by Letters Patents under the great Seal, when the King is *in remotis* out of the Realm: or by Commiſſion under the great Seal of *England* to certain Lords of Parliament repreſenting the perſon of the King, he being within the Realm, in reſpect of ſome infirmity. *Inſt.* 4. p. 6.

The Juriſdiction of the Commons Houſe.

This Houſe is ſo far from being the Supreme Authority of the Nation, that they are not a Court of Judicature, nor can impoſe an Oath, or take any mans Examination. Yet Sir *Ed. Coke* ſays, *Inſt.* 4. 28. that the Houſe of Commons is to many purpoſes a diſtinct Court, becauſe (he ſays) they cannot be prorogued or adjourned but by its ſelf; yet gives no more. It is true indeed, that to many purpoſes among themſelves they do judge their Members, and Elections, and have a Committee for Religion; but theſe things are more of cuſtom (whether good or bad, I cannot tell) then of any original right that I know, or ever heard of. And Sir *Ed. Coke*, *Inſt.* 4. 11. ſays, They being the general Inquiſitors of the Realm, have principal care in the beginning of Parliaments to appoint Committees of Grievances (both in Church and Commonwealth) of Courts of Juſtice, of Priviledges, and of Advancement of Trade. They have been wont too, ever ſince the Statute *de Tallagio non concedendo*, of courſe to grant the King Aids in extraordinary caſes.

The Juriſdiction of the Houſe of Lords.

The Houſe of Peers, aſſiſted as aforeſaid, are the Supreme Court of Judicature in this Nation; not only to judge whether matters preſented to them by the Commons, be fit or requiſite for the King to paſs into Laws, (as Monſieur *Bodin* well obſerves, who diſputes this better then any of our Engliſh Lawyers that I know of, has done) but alſo of Writs of Error, and of matters of Fact either not determinable in other Courts, or elſe when though they are determinable in other Courts, yet in regard of nicety or ſpecial matter they cannot well diſcern or judge.

Annot.

I have therefore been particular herein, as well to ſhew into what cauſe not only both Houſes conjunctly, but every particular Member in either, have a right of being; as alſo (ſince *Non datur progreſſus ad infinitum*) the Parliament being a body compounded of heterogenial or diſſimilar parts, if they ſever or divide, into what Subjects may, ultimately with good conſcience, reſolve their faith and obedience. And no queſtion, it is better any thing ſhould be Law, then that every thing ſhould be lawful: And that is the greateſt ſlavery, where Subjects know not where to pay their obedience, and from whence to expect protection; but where different Factions ſhall with equal right or injury, impoſe their luſts and wills for Laws to their Fellow-ſubjects.

The Juriſdiction of Parliament.

The Juriſdiction of Parliament is ſo tranſcendent, that it maketh, inlargeth, diminiſheth, abrogateth, repealeth and reviveth Laws, Statutes, Acts

Acts and Ordinances, concerning matters Eccleſiaſtical, Capital, Criminal, Common, Civil, Martial, Maritime, and the reſt: It may make Daughters and Heirs apparent of a man or woman, during the life of the Anceſtor; adjudge an Infant or Minor of full age; attaint a man of Treaſon after his death; it may Baſtard a Child that is Legitimate, it may make a Baſtard Legitimate.

Com. Lit. 110.

Inſt. 2 *par.* 36.

By what other names called.

A Parliament was called before the Conqueſt, *Michael Sinoth, Michael Gemote, Ealſa Witenage Mote*; that is to ſay, the Great Court or Meeting of the King and of the Wiſe men; ſometime, of the King with the Council of his Biſhops, Nobles, and wiſeſt of his people. The *French* call it *Les eſtates*, and *L'aſſemble des eſtates*; (the Parliaments in *France* are no other then our Courts of Kings-Bench, Common-Pleas, Exchequer, and Chancery in *England.*) The *Germans* call it a *Dyet*. And *Inſt.* 4. *p.* 2. it was antiently called *Witenage mote, Conventus ſapientum, Commune concilium regni, Generale concilium regni, Concilium regni, & Aſſiſa generalis. Tully* calls it, *Conſeſſum Senatorum, à conſidendo, &c.*

Inſt. par. 1. 110. *a.*

Object.

But it may be it will be objected, That though the King be *principium, caput, & finis Parliamenti*, and that every Member, as well as both Houſes, have their original right and ſitting there from him; and that though Laws of right ought to paſs in Parliament at the rogation, requeſt or petition of the Commons, by the counſel and advice of the Lords; yet the Kings of the Nation have long ſince diveſted themſelves of this power, and have granted the Lords and Commons a concurring power in the making of Laws, or by cuſtom and uſage it hath been ſo time out of mind, and ſo ought to be obſerved as a Law.

Anſ. 1.

To the firſt I ſay, Kings reign by a higher then any humane law; and therefore no act of any King can diveſt himſelf or ſucceſſor of any attribute due to him or his ſucceſſor: And if Kings actions did oblige themſelves or ſucceſſors, then were this Crown not free, but ſubject to the Pope, becauſe King *John* made it ſo. But I deny the aſſertion, for it is falſe, that ever any King of this Realm did ever grant the Parliament, or either Houſe, a concurring power of making Laws with him.

Anſ. 2.

For the ſecond; No uſage, preſcription, or cuſtom can take place, where there are records or proofs to the contrary. Whether we cannot give proofs enough to the contrary, judge good Reader.

David's calling all the Lords of *Iſrael*, the Lords of the Tribes, the Lords of the Companies that miniſtred to the King by courſe, the Captains over thouſands and over hundreds, and the Lords that had the overſight over all the ſubſtance and poſſeſſion of *David* and of his ſons, with the Chamberlains, and all the mighty, and all the valiant, and all the active men, unto *Jeruſalem*, to conſult concerning the building of God a houſe, 1 *Chron.* 28. 1, 2. was a Parliament. So was that Convention of *Solomon's*, 2 *Chron.* 2. and that Convention of the Iſraelites, *Judg.* 20. 11.

Inſt. 4 *par.* 3. *Ibid.*

Ego Inas Dei gratia Weſtſaxonum rex, exhortatione & doctrina Cenredes patris mei, & Heddes epiſcopi mei, & Erkenwaldes epiſcopi mei, & omnium Aldremannorum meorum, & Seniorum ſapientum regni mei, multaque congregatione ſervorum Dei, ſollicitus de ſalute animarum noſtrarum, & ſtatu regni mei, conſtitui rectum conjugium, & recta judicia, pro ſtabilitate & confirmatione populi mei, benigna ſedulitate celebrari, & nullo Aldremanno vel alicui de toto regimine noſtro conſcripta liceat abolere judicia; was an Act of Parliament.

Preem. par. 9. *Reports.*

Hoc

Edwardus rex admonuit omnes ſapientes ſuos qui fuerint Exoniæ, *ut inveſtigarent ſimul, & quærerent quomodo pax eorum melior eſſe poſſit quàm ante fuit*; was an Act of Parliament by *Edward* King *Alfreds* ſon. *Ibidem.*

Hæc ſunt inſtituta quæ Edgarus *rex conſilio ſapientum ſuorum inſtituit*; were Acts of Parliament. *Ibidem.*

Hoc eſt conſilium quod Etheldredus rex, & omnes ſapientes ſui condixere ad emendationem pacis omni populis, apud Woodſtock. Hæc ſunt verba pacis, & prolocutionis quæ Etheldredus rex, & omnes ſapientes ejus cum exercitu firmaverunt, qui cum Anulano, Juſtino, & Guemundo Stigrani filio venit: Et hæc inſtituerunt Etheldredus *rex, & Sapientes ejus apud Habum*; were Acts of Parliament. *Ibidem.*

Edmundus rex congregavit magnam Synodum Divini ordinis & Seculi apud Londonum civitatem in Sancto Paſch. ſolenni: & hæ ſunt inſtitutiones quas Ed. rex, & epiſcopi ſui, cum ſapientibus ſuis inſtituerunt apud Culinconam, &c. & paulo poſt: Ego Edmundus *rex mando & præcipio omni populo ſenior', & junior', qui in regione mea ſunt, qui inveſtigans inveſtigari, cum ſapientibus Clericis & Laicis*; were Acts of Parliament. *Ibidem.*

Hæc ſunt ſtatuta Canuti regis Anglorum, Danorum, Norvegar' venerando ſapientum ejus conſilio ad laudem & gloriam Dei, & ſui regalitatem & commune commodum habita in Sancto Natali Domini apud Wintoniam, &c. were Acts paſſed in Parliament. *Ibidem.*

Rex Canutus an. regni ſui 5. per 130 annos ante copilationem decretorum quæ an. Dom. 1150. *fuer' copilat' anno 7 pontificatus Papæ Eugenii tertii, & ante copilation' aliorum Canon' quorumcunque, cunctos reg' ſui prælat' procereſque ac magnates ad ſuum convocans Parliam' in ſuo publico Parliam' perſiſtentibus perſonaliter in eodem Wulſtano, & Adelnodo archiepiſc' & Ailwino epiſc' Elmehamenſe, & aliis epiſcopis ipſorum ſuffragan' ſeptem Ducibus, cum tot Comitibus, nec non diverſorum monaſter' nonnullis Abbatibus, cum quamplurimis gregariis milit' ac cum populi multitudine copioſa, ac omnibus adhuc in eodem Parliamento perſonalit' exiſtent' votis Regiis unanimiter conſentientibus, præceptum & decret' fuit, quod Monaſterium Sancti Edmundi &c. ſit ab omni juriſdictione epiſcopor' com' illius ex tunc imperpet' funditus liberum & exemptum, &c. Illuſtris rex Hardicanutus pred' regis Canuti filius, hæres & ſucceſſ ac ſui patris veſtigior' devotus imitator, &c. cum laude & favore Ægelnod' Dorobornenſis, nunc Cantuarienſis, & Alfrici Eborac' epiſcopor', aliorumque epiſcopor' ſuffragan', nec non cunctorum regni mei mandanorum principum deſcriptum conſtituit roboravitque præceptum*; were Acts of Parliament. *Ibidem.*

Rex Eldredus convocavit Magnates, Epiſcopos, Proceres, & Optimates ad tractandum de publicis negotiis regni: And this was a Parliament. *Inſt. 4. p. 3.*

But none of theſe (you will ſay) have the obligation of Laws upon us. Well, let us ſee thoſe Acts of Parliament which have, and what is the difference. By the way, no Acts of Parliament are now, nor theſe 400 years have had the force of Statute-Laws in *England*, but thoſe made in *Henry* the Third's time, and ſince. And what was the firſt and great Act of *Magna charta*, but — *Henry by the grace of God King of England, Lord of Ireland, &c. We have granted to God, and by this our preſent Charter have confirmed for us and our heirs for ever, That the Church of England ſhall be free, and ſhall have all her whole rights and liberties inviolable. We have granted alſo and given to all the Freemen of our Realm, for us and our heirs for ever, thoſe Liberties underwritten, to have and to hold to them and their heirs, of us and* *Magna Charta* an Act of Parliament.

Nota bene. *our heirs for ever.* Note, this great Charter which made the Church and Kingdom of *England* the moſt free in the world, was a free and voluntary act of an Engliſh Monarch in Parliament: And all that violation and deſtruction of all thoſe happy Grants and Conceſſions both in Church and State, have been made by a curſed conſpiracie of a factious and ſeditious company of men (falſly and moſt injuriouſly arrogating to themſelves the name of Parliament) without and againſt the Kings good mind and pleaſure.

Charta Foreſta was — Henry *by the grace of God King of* England, *Lord of* Ireland, *Duke of* Normandy *and of* Guyen, &c. *We will that all Foreſts which King* Henry *our Grandfather afforeſted, ſhall be viewed by good and lawful men, &c.*

Statutum Hiberniæ was nothing elſe but — Henry *by the grace of God King of* England, *&c. To his truſty and welbeloved* Gerard *ſon of* Maurice, *Juſticer of* Ireland, *greeting.* Commanding him to cauſe the Cuſtoms recited in the Act, and uſed in *England*, to be proclaimed, and ſtreightly kept and obſerved in *Ireland.*

An.21.H.3. *Statutum de Anno Biſſextili* was — *The King unto the Juſtices of the*

An.51.H.3. *Bench greeting, &c.* The Statute intituled *Aſſiſa panis & cerviſiæ*, was — *The King to all to whom theſe preſents ſhall come, greeting. We have ſeen certain Ordinances, &c.*

An.51.H.3. *Stat. de Scaccario: The King commandeth that all manner of Baſiliffs, Sheriffs and other Officers, as well Juſtices of* Cheſter, *&c.*

An.52.H.3. *Statutes made in the Parliament at* Marleborough; *wherein the King made theſe Acts, Ordinances and Statutes underwritten, which he willeth to be obſerved for ever firmly and inviolably of all his Subjects, as well high as low.*

An.3.Ed.1. *Statute of Weſtminſter the firſt*, were the Acts of *Edward* the ſon of *Henry, &c.* by his Council, and the aſſent of Archbiſhops, Biſhops, Abbots, Priors, Earls, Barons, and all the Commonalty of the Realm, &c. the King ordained and eſtabliſhed theſe Acts underwritten, which he intendeth to be neceſſary and profitable unto the whole Realm. Firſt the King willeth and commandeth that the peace of Holy Church, and of the Land be well kept and maintained in all points, and that common right be done to all as well poor as rich, without reſpect of perſons, &c.

An.6.Ed.1. Statutes made at *Glouceſter*, where our Soveraign Lord the King for the amendment of the Land, and for the relief of his people, &c. hath provided and eſtabliſhed theſe Laws underwritten, willing and commanding that from henceforth they be firmly obſerved within the Realm.

An.10.Ed.1. Statute of *Rutland*, hath no other title then — *The King to his Treaſurer and Barons of the Exchequer, and to his Chamberlains greeting, &c.*

An.20.Ed.1. *Articuli ſuper Chartas*, were Grants in Parliament made by the King at the requeſt of the Prelates, Earls and Barons aſſembled in Parliament. *Note*, the Commons are not ſo much as named in theſe Acts of Parliament.

An.30.Ed.1. *An.33.Ed.1.* The Statute of *Quo Warranto* made at *Glouceſter*, and Statute *de Protectionibus* made at *Weſtminſter*, the King only ſpeaks.

An.34.Ed.1. *Stat. de conjunctim Feoffatis:* The King unto all to whom theſe, &c. greeting. And after the recital of the things contained in the Act, it is ſaid, *In witneſs of which thing we have cauſed theſe our Letters Patents, I my ſelf being Witneſs at Weſtminſter.*

Statute

Statute of Amortiſing of Land, made by *Ed.* 1. only the King ſpeaketh. *Ordinatio pro ſtatu Hiberniæ*, made 17 *Ed.* 1. the King ſpeaketh by the aſſent of his Council.

Statute *Ne Rector proſternat arbores in cœmiterio*, only the King ſpeaketh, and neither Council nor Parliament mentioned. *An.* 35 *Ed.* 1.

Statute for *Knights*, hath no other title then---*Our Lord the King hath granted, &c.* And *Stat. de frangentibus priſonam*, 1 *Ed.* 2. hath nothing to create it a Law, but, *The King willeth and commandeth*; and neither Parliament nor Council named in either of them. *An.* 1. *Ed.* 2.

Articuli Cleri made at *Lincoln*, the King and his Council are named. *An.* 9. *Ed.* 2.

The Statute of *York* was made by the King, by the aſſent of the Prelates, Earls, Barons, and Commonalty there aſſembled: So that in theſe three Kings reign, although the King did enact them in Parliament, yet the manner was different almoſt in all. *An.* 12. *Ed.* 2.

In *Ed.* 3. his time, was the form of enacting Laws truly defined, and much uſed by him and the ſubſequent Kings. At the Parliament holden at *Weſtminſter*; "King *Edward* at the requeſt of the Commonalty, and by "their Petition made before him and his Council in the Parliament, and "by the aſſent of the Prelates, Earls, Barons, and other great men aſſembled "at that Parliament, hath granted &c. *An.* 1. *Ed.* 3.

In the next Parliament holden at *Northampton*, the Laws are made by him, and by the aſſent of the Prelates, Earls, Barons, and other great men, and all the Commonalty aſſembled in Parliament. *An.* 2. *Ed.* 3.

Statutes made at *Weſtminſter*, were enacted by the King, his Prelates, Earls, Barons, and other of the ſame Parliament, at the requeſt of the Commons. *An.* 4. *Ed.* 3.

Statutes made at *Weſtminſter*: The King by the aſſent of the Prelates, Earls, Barons, and other great men of the Realm, at the requeſt of his people granted, and eſtabliſhed &c. *An.* 5. *Ed.* 3.

Statutes made at *York*, were enacted by the King in Parliament, upon the Petition of the Knights, Citizens and Burgeſſes. *An.* 9. *Ed.* 3.

Statute of Money made at *York*, was enacted by the King, with the aſſent of the Prelates, Earls and Barons, and the Commons not ſo much as named. *An.* 9. *Ed.* 3.

Statutes made at *Weſtminſter*, were made and eſtabliſhed by the King, with the aſſent of the Prelates, Earls, Barons, and other Nobles of this Realm, and at the requeſt of the Knights and Commons. *An.* 10. *Ed.* 3.

Statutes of Purveyors made at *Weſtminſter*, were enacted by the King, with the aſſent of the Prelates, Earls, Barons, and alſo at the requeſt of the Knights of the Shires, and the Commons by their petitions put in the ſaid Parliament. *An.* 10. *Ed.* 3.

Statutes made at *Weſtminſter*, were to the honor of God, and of Holy Church, by the aſſent of the Prelates, Earls, Barons, and other aſſembled at Parliament. *An.* 14 *Ed.* 3.

And ſee almoſt all the Acts of Parliament in *Ed.* 3. his time, after in *Rich.* 2. *Hen.* 4. *Hen.* 5. *Hen.* 6. *Ed.* 4. *Rich.* 3. the King always made the Law, and the Lords Spiritual and Temporal did aſſent, at the inſtance, requeſt or petition of the Commons; or by the King with the aſſent of the Lords and Commons; which was not, or but rarely uſed, unleſs in *Rich.* 2. his time. In *Hen.* 7. his time, the Commons got to have their aſſent, as well

as the Lords in passing Laws. And this manner of passing Laws continued generally until *Edward* the Sixth's time, where they were sometime made by the King, with the assent of the Lords Spiritual and Temporal, and Commons in Parliament, and sometime by the Parliament: But the form of enacting Laws by the King, and the Lords Spiritual, Temporal, and Commons assembled in Parliament, was seldom or never used before Queen *Maries* time.

Sessions of Parliaments, do not derogate from Regal Power.

So that it is as clear as the Sun at noon-day, That a King of *England*, by the ancient usages of this Nation, is as free and absolute in the Session of Parliament, as out. And the Act of a King in Parliament, is the free and voluntary Act of an absolute Monarch; for the Act of the King in Parliament passed by the assent of the Lords Spiritual and Temporal, and at the Petition of the Commons, is not less the act of the King, because it is so passed; unless a man will deny, that my Will being a faculty of my Soul, cannot imperate an act, if it takes information from my Understanding or Reason; Reason and Understanding being in proportion to the Will, as Counsel is to a Law. King *Charles* of Sacred memory, commends to his Son, the then Prince of *Wales*, in his last Letter and Admonition to him (though for his own particular he had little Reason (God knows) so to do) the frequent use of Parliaments, as the best means, by which, Laws may be received of the Subjects, and diffused to all parts of the Nation, and to hold a right understanding between the King, and his Subjects.

But as *nullum medicamentum est idem omnibus*; nay, the same Medicine at one time may kill the same person, which at another time may cure him: And that thing, which at one time may be a very probable reason of an action, at another time, may be none at all, or quite contrary to Reason: So in Reasons of State, that may be a very probable reason at one time, which may be none at all, or perhaps destructive at another time. As *Henry* the Third had great Reason of State, to form a House of Commons, and endue it with large priviledges, to secure himself against a stubborn and rebellious Nobility: But King *Charles* had not the same Reason of State to indulge the House of Commons, contriving the destruction of himself, the Church and Nobility, Laws and Liberties of this Nation. *Edward* the First had great Reason of State to call a Parliament, and to pass the Act *De Tallagio non concedendo*, for otherwise as the state of affairs then stood, he could neither get money to assist his Friend and Ally, the Earl of *Flanders*; nor relieve his distressed Subjects in *Aquitaine* oppressed by the French King (which Sir *Edward Coke* in his Comment upon this Statute observes;) but King *Charles* had not the same Reason of State, to call the Parliament in 1640. who (instead of assisting their natural Sovereign against a Rebellious Rabble of Mungrel *Hebrides* and *Lysisks*, give them Three hundred thousand pounds to be exported out of the Kingdom for their Brotherly assistance.

Edward the First had great Reason of State to pass the Statute of *Mortmaine*, when as men were so superstitiously given, that no man thought he could merit Heaven, if he gave nothing to the Church; whereby such large Revenues accrued to the Church, that the third part of the Revennes of the Nation was in Church-mens hands; who pretending exemption from the Temporal Power, if some remedy were not taken, the King would probably be left destitute of means to protect himself, and his Subjects;

jects; yet is there not now that Reason of State, when in a Sacrilegious age, all the Patrimony of the Church goes to wrack and ruine; and men of Badges of Sacriledge, make marks of Saintship. It were endless to enumerate how Reasons of State vary with the times: It must suffice, that there be means always in the Supream Power, to remedy and cure the maladies and mischiefs of State, as they arise and represent themselves. Yet it is a remarkable thing, That they who oblige Kings and Supream Powers to their own Laws, will never be obliged by either their own, or any Laws of God, if ever the Supremacy comes to be vested in them; and let any man shew me in Five hundred years one time, wherein the Kings of *England* did alter the Laws out of Parliament, and I will shew him an hundred times in seven years, where men arrogating to themselves the name of Parliament, have altered the Laws without the King: They who oblige Supream Powers to Humane Laws, the Conditions must oblige God too to such things, as is contained in those Laws and Conditions, or else it is impossible for Powers to protect their Subjects.

But *Corruptio optimi est pessima*, there were never so vile things done as have been by Parliaments, or by men calling themselves so. Sir *Edward Coke* (being always mightily in love with Parliaments) gives instances but in two, *viz.* *Thomas Cromwel* Earl of *Essex*, and *Edmund* Earl of *March* (the true and undoubted Heir of the Crown of *England*) both condemned unheard, and without tryal in Parliament, when as he might have instanced twenty. Sir *Thomas Seimer*, Admiral of *England*, and Brother to the Protector, *Anno* 1549. the third year of *Edward* the Sixth, was condemned to death unheard by a Law in Parliament. *Henry* the Third after all the Acts of Grace of *Magna Charta*, *Charta de Foresta*, *&c.* (instead of means given him by Parliament, for the recovery of his right of the Dutchy of *Normandy*, usurped and taken by the French King from his Father King *John*, and the Dutchy of *Guienne*, and Earldom of *March*, the year before usurped and taken from him by the French King) had all the exercise of Regal Government taken from him, and given to the Twelve Peers, by the * Mad Parliament; whereof ensued the Barons Wars, to the destruction and confusion of so many English-men, as nothing but a Parliament could have done. *Henry* the Fourth in the first year of his usurped Reign, had the Crown entailed upon him and his Heirs in Parliament, from whence ensued all the Wars of the Houses of *York* and *Lancaster*. At a Parliament holden *Anno Dom.* 1470. begun at *Westminster*, 26 *November*, the Crowns of *England* and *France*, were entailed upon *Henry* the Sixth, and the Heirs male of his body lawfully begotten; and for want of such Heirs unto *George* Duke of *Clarence*, being the yonger Brother of *Edward* the Fourth, the undoubted Heir of the Crown of *England*; whereby a double injustice was done, first to *Henry* the Sixth, excluding his Heirs general, then to *Edward* the Fourth, to prefer his yonger Brother *Clarence* before him, in case of want of Heirs male to *Henry* the Sixth.

Inst. 4. page 37,38.

Good Governors are the Preservers or enlargers of the Government. Parliaments have ever been the bane of the greatness of the English Monarchy.

* *Insanum Parliamentum.*

See the Factious Conspiracy of the Commons, together with the consequence against the Duke of *Suffolk*. *Speeds* History, *Henry* 6. *p.* 675. *Para.* 47, 48.

The Parliament in the First of *Richard* the Third his Reign (though a bloody Usurper) presented a Bill for the entailing the Crown upon his Heirs. Nor was the Act of Parliament less injurious, which entailed the Crown upon

Ann. 1 *Hen.* 7

upon *Henry* the Seventh, and the Heirs of his body, (he having no colour of title to it, but in right of his Wife) and becauſe he ſuſpected his title, and reigned in his own right to the wrong of his Wife, and after her deceaſe, to the wrong of his Son *Henry* the Eighth, in the eleventh year of his Reign, he got an Act of Parliament to paſs, which ſhould protect all Subjects who ſhould aſſiſt the King (be he ſo by right, or not) for the time being. So that other offences ſhould be puniſhed; but he that perpetrates the higheſt villany by invading a Crown, ſhould be protected by Law. *Henry* the Eight, by authority of Parliament, *an.* 1533. Baſtardized Queen *Mary*; and ſo ſoon as he had cut off *Anne Bullens* head, by authority of Parliament Baſtardized Queen *Elizabeth*, ſmally to his credit, one would think.

Add hereunto the ridiculous, yet cruel Act of *Hen.* 8. his Headſhip of the Church: So that a ſtranger being one day in *Smithfield*, and ſeeing one burnt for denying the Six Articles, and another hanged for denying his Headſhip, cried out, *Bone Deus, quo modo hic agunt vivi! hic comburuntur Papiſtæ, ibi ſuſpenduntur Antipapiſtæ.* The bloody Laws paſſed in Parliament in proſecution of the Six Articles, in the time of *Henry* the 8. and the bloody Parliamentary Laws for Religion, in Queen *Mary's* reign, &c. and all thoſe Sacrilegious Acts made in the reigns of *Hen.* 8. and *Ed.* 6. and ſure no man can imagine ſuch horrid acts could be perpetrated but by Parliaments.

Nor have the General Aſſemblies in *France* (who were wont to be aſſembled once or twice a year) demeaned themſelves much better then the Parliaments in *England*; but in ſtead of providing good Laws, fell into ſuch Factions, and uſed ſuch affronts to the Regal power, that *Lewis* the Eleventh (a moſt ſubtile and cunning Prince) was wont to ſay, It was time to put the French Kings, *horce de page*, out of their minority, and from being Pages any more; and ſo he did. And ſince his time they have been rarely convented in *France*: For ſince the General Aſſembly at *Bloys*, *anno* 1587. by *Henry* the Third, where the famous Duke of *Guiſe* was killed, there hath been but one, *anno* 1614. in the fourth year of the reign of *Lewis* the Thirteenth; and that ſucceeded ſo ilfavoredly, that there is no probability of ever being another.

4. Beſides the general and particular Cuſtoms, and Acts of Parliament, there are almoſt infinite Corporations, Colledges and Companies, who have divers and ſundry priviledges, which are granted by the Kings Letters Patents, and are obſerved as Laws, and to all intents and purpoſes have the effect of Laws.

5. But in all Maritime caſes, (the Kings of *England* being Soveraigns of the Narrow Seas, whatſoever *Grotius* ſays to the contrary) and all actions done upon a Navigable river, are judged by the courſe of Civil law; and ſo the Probate of Wills, and Letters of Adminiſtration are determinable by the Civil law.

Judge *Jenkins*, a learned Gentleman, and a ſtout Champion for the Laws of this Nation, in the firſt page of his *Lex terræ*, divides the Laws of this Nation into three grounds or ſpecies, *viz.* 1. The Cuſtoms, 2. Acts of Parliaments, and 3. Judicial Records; and that the two latter are declarations of the former touching Royal government; ſo that he makes Cuſtom to be the ground of Royal government, and Acts of Parliament to have but a declaratory power of the Common Law touching Royal

Royal government, and Judicial Records to be equivalent to Acts of Parliament. In all which he is most manifestly mistaken: For first, there are an exceeding many Acts of Parliament, which have no manner of dependence or affinity with the Common-Law, and so cannot be declarations of it; nay, there are many Acts of Parliament which are so far from being declarations of the Common-Law, that they do annihilate it, and create other things in lieu thereof; as the Statute of *West.* 2. *cap.* 1. called the Statute *de donis conditionalibus*, annihilated all the Conditional estates in Fee at Common-Law, and created estates in Tail in lieu thereof. At Common-Law, no Lands or Tenements were deviseable by Will; but the Acts of 32 & 34 *H.* 8. create a power of devising Lands and Tenements in Fee, by Will; and Tenants at Common-Law might choose whether they would attorn to any Grant of the Lord; but now the Lords Grant is good without it, by 27 *H.* 8. *cap.* 10. Sir *Ed. Coke com. on Lit. sect.* 574. says, *Stat.* 32. *H.* 8. takes away the reason of the Common-Law; so that, that cannot be a declaration of what, it takes away the reason.

It were tedious to instance the Acts of Parliament which give one Jointenant a power to compell the others to sue a Writ of Partition, which was denied at Common-Law; and right of Entry, where they were put to their *Cui in vita, &c.* It may suffice, that in no Kings reign there have not been Acts of Parliament, which have been so far from making declarations of the Common-Law, that they have made manifest alterations in it. And as the Common-Law hath no force nor reason against an Act of Parliament, so hath no particular Custom any force or reason against it, for no man can prescribe against an Act of Parliament; and all Lands in Gavelkind were particular Customs, but taken away by Act of Parliament. And many Acts of Parliament have not declared the Succession of the English Diadem according to the usual custom thereof, but made manifest alteration thereof, as in the Succession of *Hen.* 4. 5. & 6. *Rich.* 3. *Hen.* 7. & 8. which being unjust, and the cause not depending upon Humane laws, ought not to be obeyed.

Nor (secondly) is that a less error, that Judicial Records are equivalent to Acts of Parliament; for they are so far from being equal to Acts of Parliament, that in truth they are no Laws, but Inferences and Conclusions which are deduced from Laws. For there is not any Judicial Record, which is not unjust, if it cannot truly and ultimately be resolved in some general or particular Custom, Act of the Parliament, or grant of the King. So that Acts of Parliament, the Common Law, Particular Customs and Prescriptions, and Royal Grants, are as Axioms, *Postulata*, or Principles in Arts or Sciences; and Judicial Records, Reported Cases, and Years-books, are Inferences, Conclusions, or Sciences deduced from Acts of Parliament, the Common Law, and particular Customs of this Land, or Concessions of the King.

Touching Royal Government; Royal Government being the ordinance of God, and from the Law of Nature, is paramount to all Humane laws, and the prime and efficient cause of them; they cannot therefore declare the cause, so as to create any obligation, of what they are but the effects, and from whence derived.

We have thus far treated of the means by which the Kings of this Nation have (until 1640.) governed and preserved their Subjects internally.

nally. But because it is the office of Kings, to preserve their Subjects as well from foreign force, as internal broil; there is yet something wanting, of which we have not treated, *viz.* The power of making War and Peace, and maintaining Alliance and Traffique. Of these, in regard they refer to Foreign powers and jurisdictions, and are not subject to the Laws of the Nation, we shall forbear to treat; only affirming that it is necessary that at all times this power must be so vested in the King, that at all times he may have the aids and assistance of his Subjects in prosecution of the Ends aforesaid.

The end of the Third Book.

The Contents of the Fourth Book.

HAving thus far treated of all created Rights, and the causes of all Laws and created Powers and Vertues, and these being previous and necessary to all Justice and Obedience; We in this Book descend to treat of Justice in the first Chap. as the most eminent and noble of all Humane vertues, it being that which not only conserves private Families, but all Nations and Kingdoms in unity, peace and society; and demonstrate it neither to be in Geometrical proportion, as Plato *would; nor Arithmetical proportion, as* Zenophon *held; nor in Harmonical proportion, as* Bodin *taught: Nor is that corrective and distributive Justice, which* Aristotle *affirmed to be in Arithmetical, and in Geometrical proportion.*

The Second Chap. *treats of Obedience, and shews how that it necessarily proceeds, and yet is different from Justice.*

The Third Chap. *treats of Judgment, and shews how it differs from Law and Justice.*

The Fourth Chap. *treats of Equity, and shews how it differs from Judgment, and how necessary Courts of Equity, as well as Judicature, are.*

THE

THE FOURTH BOOK.

CHAP. I.

Of Justice.

1. 

Justitia est habitus animi communi utilitate servata, suum cuique tribuens, & Societatem conjunctionis Humanæ munifice, atque æquè tuens. Justice is a habit of the Minde, common utility being conserved, giving to every one their right, and bountifully and equally defending the Society of Mankinde. *Et Justitia est quæ suum cuique distribuit*, Justice is that which does distribute to every man what is his right. Where he says, That *Justitia est obtemperatio scriptis legibus*; we will shew that is not properly Justice, but Obedience onely.

Cicero's definition of Justice.

Cicero, lib. 1. de legibus.

2. Justice is the upright doing of an act conserving Society, in that formality as it is commanded, or permitted by him; who by right may command or permit it. Justice is the doing of a just action; the doing of a just action, is the upright doing of any act, as it is commanded or permitted by him, who by right may command or permit it, preserving Peace and Society. I say, Justice must have these two properties, *viz.* upright doing (that is, abstraction from all affections of love, hate, or self-interest) and the Law or Command of him, who by right may command or permit such an act: Other actions proceeding from Wisdom, Reason, Experiment, or Discourse, *&c.* are prudent, profitable, *&c.* but none are just, or honest actions, which cannot be truly and ultimately resolved into the Law or

Quid sit Justitia.

Quotuplex. Command of him, who by right may command, or permit ſuch an act. So that Juſtice is twofold, either commanded or permitted.

What is Injuſtice. 3. Injuſtice is the abuſe or falſifying the Law or Command of him, who by right commands, to the hurt or prejudice of another. As a Law preceding and Integrity, are inſeparable incidents to Juſtice; ſo Hypocracy, ſeeming juſt, and yet abuſing or falſifying a Law, and the damage of another or more, are incidents inſeparable to injuſtice.

God commands by higheſt right. 4. Let us ſee who may by right command, and who are obliged to do in conformity to their Laws and Commands. I ſay, God by higheſt right ought to command all the created things in Heaven and Earth; and all Creatures are chiefly and abſolutely obliged to do whatſoever he commands, without any reaſoning or diſputing why he ſo commands; *For the earth is the Lords, and all that therein is; the compaſs of the World, and all that dwell therein: And whatſoever is under the whole Heaven, is Gods; and the World is mine, and the fulneſs thereof.* All Gods commands therefore have a like and equal influence upon all his Creatures; all Creatures, as compared to him, are alike vile, and between him and them is no proportion. To abuſe then or falſifie any Law of God or Nature, to the hurt or prejudice of another, is a ſin of injuſtice in all Gods Creatures, and therefore in all men, and therefore in all ſorts of men: As if any man promiſes another, that he will do, or give him ſuch a thing, although it be to his hinderance, he wilfully breaks his promiſe. I ſay, this is a ſin of injuſtice in the promiſer; for he abuſes and falſifies the Law of Nature, which obliges every man to the performance of his promiſe, to his hinderance, to whom he made his promiſe. And though this be the Law of Nature which does onely oblige in Conſcience, yet is ſuch a promiſer an unjuſt man, nor does he deſerve to be truſted as a friend, or honeſt man.

Pſal. 24. 1. Job 41. 11. Pſal. 50. 12.

Note. But this muſt always be underſtood of private men, and they not preengaged before, for the firſt promiſe is to be performed: Neither muſt the performance of a private mans promiſe, be to the hurt or damage of another man; for by the Law of Nature he was obliged to hurt no man, and to give to every man his due, before he made ſuch promiſe. A publick perſon promiſes to another, to do or give him ſuch a thing which will be prejudicial to his truſt, I ſay he ought not to perform it; for he was obliged to perform his truſt, before he made ſuch promiſe. What then, does preengagement, the not injuring of another, or publick employment, free men and ſet them looſe from all Law of God and Nature? I anſwer, nothing leſs, for they ſin not leſs then private freemen, in not performing their promiſe, but commit a greater ſin in breaking their firſt promiſe, and betraying their publick truſt, *&c.* then if they ſhould perform their promiſe: So that in promiſing they ſin, but in the performance they commit a greater ſin.

How Kings promiſes are to be interpreted and performed. 5. A King promiſeth he will not hurt any of his Subjects in their perſons or eſtates, without due Proceſs, and after judgment given according to the known Laws. He being a King, was obliged as King to do to the beſt of his power, all things in order to the good and preſervation of his ſubjects in general; and therefore is obliged to this latter promiſe onely, as it is conſiſtent with his former: He ought onely to protect his ſubjects in particular, as it does relate to the good and benefit of his ſubjects in general. I ſay therefore, notwithſtanding any ſuch ſubſequent promiſe, is not any

King

King obliged to it; but may in case of publick necessity, govern by Martial Law, and destroy any particular Subjects estate, rather then enemies, or seditious men should make advantage thereof to the endangering of the publick: Nor is this any new thing, but always was in all species of Governments since the World began; nor does any King sin in making such promise, for he may justly do it, and thereby secure the mindes of his Subjects, who would otherwise be in a continual diffidence; nor does he sin in not performing this promise, when it becomes inconsistble with the publick good; for no King can possibly foresee all the publick necessities and dangers which may happen.

Injustice in Princes.

6. No mans being greater or lesser, does free him from his duty which he owes to the Laws of God; all men being alike, as compared to God. Kings therefore being so, are not disobliged to the Laws of God and Nature: It was therefore a sin of injustice in *Ahab*, to take the possession of *Naboth's* Vineyard, the property and inheritance of the *Israelites* being given by God, and unalienable by the Children of *Israel*. I say this was a sin of injustice in *Ahab*; for his being a King, did not free him from Gods Laws, but did without any publick necessity, abuse the power and command which God had given him as King, to the damage and hurt of *Naboth* and his posterity. *Davids* putting *Uriah* to death, and *Ahabs* consenting to *Naboth's* death, although after his death, were sins of injustice; for they were entrusted by God to be Kings for the good of their Subjects: Whereas they did abuse and falsifie their trust to the highest wrong of others, whom they ought to have protected: *Princes are Gods Ministers for their Subjects good.*

Rom 13. 4. Kings by right command next after God.

7. Man being a reasonable and sociable Creature, which being inconsistible with community and parity, and mankinde being onely conservable in Society, that is in the mutual commanding and obeying of different parties: And as God by highest right, ought in all things to be obeyed, so Kings ought to be obeyed next after God in all things: For every Soul ought to be subject to the higher powers; for there are no powers but of God, and the powers that be, are ordained of God: And through me Kings reign, and Princes make just Laws. All things therefore which Princes command (where God hath not left necessary Laws for the good and governing of their Subjects, which he was onely pleased to do to his peculiar people the *Israelites,*) are therefore just, because they command them, they commanding nothing repugnant to the Laws of God.

Rom. 13. 1. Prov. 8. 15.

Injustice in Subjects.

8. A Prince commands a Judge to execute the known Laws uprightly; he becomes corrupt, and sells, or otherwise purloyns judgment. I say this is a sin of injustice in the Judge, for he abuses the command of his Prince, who by right might command him to the damage of another, against whom false judgment is given. It is an act of injustice in all Subjects in general, to abuse the trust committed to them by their Soveraigns, for he by right may command, and entrust them; nor can they abuse their trust, but it must be to the damage of the Prince, or some other. But besides expres Obedience of Subjects to their Soveraigns, when they are particularly entrusted by them, there is a general and implied Obedience which Subjects ow to their Soveraigns, and the Laws of their Countrey, as Subjects; whether they be employed in any place of trust, or not: For subjection being in the predicament of Relation, does imply a right of command; and

no man can be subject, where there is nothing to which he is subject. It is therefore a sin of injustice in any Subject, to pretend or abuse any of his Countries Laws, to the hurt or damage of another.

Highest injustice in Subjects.

9. Since therefore, Kings by highest right, next after God, may command; then by consequence is that the highest sin of injustice, next after Luciferian pride of Creatures, making themselves equal or superior to their Creator, for Subjects to tread under foot all Sacred and Civil Laws, to make themselves superior to their Soveraigns, to whom by all Divine and Humane Laws they ow their obedience, to the ruine and destruction of so many thousands of innocent men, women, and children, and families of all sorts, which must necessarily come to pass in the attaining their ends. And that Subjects do abuse all Humane Laws, in pretending them to the advancing of themselves above all Humane Laws, and their rightful Superiors; There neither is, nor ever was, any Government in the World, good or bad, just or unjust, that did ever permit subjects, without authority from it, to take up arms: And by our Countrey-Laws, *If any man levy war to expulse strangers, to deliver men out of prison, or against any Statute, or any other end, pretending Reformation of their own head; this is a levying war against the King, because they take upon them the Royal Authority, which is against the King.* Inst. 3. p. 9.

Nota.

All Oaths, Promises, &c. made against Prince or Laws, are void.

10. All Stipulations, Oaths, Promises, *&c.* made by Subjects against their Prince, or Laws, are void, and not to be performed; for they were Subjects, and obliged to their Prince and Laws, before they made such Oath, Stipulation, Promise, *&c.*

Husbands by right may command their Wives.

11. God is not onely the Author of Government and Obedience, of Order, and Society in Nations and Kingdoms, but also in Man and Wife; for being reasonable and sociable Creatures, does imply a necessity of mutual commanding and obeying. God first created man, and by so creating him, gave him the power and dominion over the woman. It is therefore an act of Justice in every Wife, uprightly to fulfil the Law or Command of her Husband to the benefit of him, or another, he commanding nothing derogatory to the Laws of God or his Countrey; and a sin of injustice in the Wife, to falsifie or abuse any Law or Command of her Husband, to the hurt or prejudice of her Husband or another.

1 Tim. 2. 13.

Justice and injustice in a Wife.

Of Justice and injustice in Wives and Children.

12. God is not less the Author of Power, or Right of Command in Parents, then in Husbands. As therefore it is an act of Justice for Wives and Children, uprightly to do any act which is commanded them by their Husbands and Parents (they not commanding contrary to the Laws of God, or their Countrey) so it is injustice in Children, as well as Wives, to falsifie any Command or Law of their Parents, to the hurt or prejudice of another.

Whether the Wife ought to obey the Father or Husband.

13. Suppose the Father and the Husband command the Wife contrary things, whereby it becomes impossible that the Wife should serve both: Which ought she to serve? I say, the Husband: For though the Fathers power be from God, and so inseparable by any act of Man; yet is not God obliged to his own Laws, but may give that which he gave the Father, to another. And Matrimony being an Institution of God in Paradice, and the Husbands power from the Law of Nature, that is from God, the Wife becomes subject to her Husband; retaining notwithstanding her piety and observance, which is always due to her Father.

14. All

14. All Societies, that is, all companies of Men, whether of Master and Servants, of Father and Children, of Husband and Wife, of King and Subjects, are contained in the mutual Offices of commanding and obeying. It is true, that *Cicero* says, *Cum dico legem, à me dici nihil aliud intelligi volo, quam imperium; sine quo nec domus ulla, nec civitas, nec gens, nec hominum universum genus stare, nec rerum natura omnis, nec ipse mundus potest.* Where therefore the Laws of Nature are not sufficient, there must be a supply of Humane Laws. We have shewed before, that the Power or Right of Command, which Kings have over their Subjects, which Husbands have over their Wives, which Parents have over their Children, is from the Law of Nature, that is from God immediately, I say, they command by the Law of Nature: For all right of command which is not from any Humane Law, is from the Law of Nature; but Kings, Parents, and Husbands have a right of command, and not from any Humane Law, they have it therefore from the Law of Nature. But though Masters of Families have a right of command over their Servants, yet formally they do not command by the same right that Kings, Fathers, and Husbands do: For I deny, that ever any Master of a Family had his power from any Law of God (I except the *Israelites*) or Nature; but that ever since there were Families, the Masters, or Mistresses of the Families derived and had their power or right of command over their Servants, from their Countries Laws. If *Adams* Family be objected, I say, that *Adam* commanded not as Master of a Family onely, but as a Universal Monarch, not onely over all the Creatures irrational that God had made, but also over his Wife and Posterity as King, and not as Father and Husband onely: For no Father, or Master of a Family, can create any property in his Son or Servant; nor had ever any Subject (who was not an *Israelite*) property, from any Law of God or Nature. But it is evident, that *Cain* had property in the Fruit of the Ground, and *Abel* in his Flocks; they therefore derived it from *Adam* as King.

Masters of Families by right command their Servants. *Cicero, lib. 1. de leg.*

Object. Sol.

Gen. 4. 3, 4.

15. Since Humane Laws are necessary for the conservation of all Societies of Men, and the Masters power not being contrary to any Law of God or Nature, the Master of every Family hath right of command over his Servants by the Laws of his Countrey, he commanding nothing repugnant to the Laws of God or his Country. It is therefore Justice in every Servant, uprightly to execute such commands of their Masters; and injustice to falsifie or abuse such commands, to the hurt, or prejudice of another.

Of Justice and injustice in Servants.

16. Suppose the Father makes his Son a Servant (for every Father hath the same right over his Childes person, that a King hath over his Subjects) and the Father and Master command the Son contrary things: Which shall the Son serve? I say (the Fathers power being from the Law of Nature, and so inseparable by any act of Man) the Son ought to serve the Father; but the Father being as much in the power of his Soveraign, as the Son in his Fathers, the Father shall make good to the Master whatsoever he shall be damnified by such command; the Laws of the Fathers Countrey obliging Subjects to perform their Contracts.

Whether the Son ought to prefer the commands of his Father or Master.

17. Suppose

How far the Servant owes his Master subjection.

17. Suppose the Master command contrary to the Laws of God or his Country, and the Servant executes such command; shall this excuse the Servant? No; for being a Servant, does not free him from the obligation of the Laws of God or his Country, as a Subject. Well, but if the Master commands upon corporal punishment, (for the Masters power obligeth to corporal punishment) to do something contrary to the Laws? I answer, That *jus vitæ & necis*, which Masters had over their Servants, is generally restrained every where as well among *Mahumetans*, as *Jews* and *Christians*, where men are of the same faith: So that Masters cannot put their Servants to death, as Masters, for any crime: If they otherwise punish them unjustly, *Object.* 1. the Servants have their remedies by the Laws of their Country. But who shall judge whether this be contrary to the Laws of God or his Country? the Master, or the Servant? I say, not the Servant. But if the Servant may *Object.* 2. not judge, yet has he not a Conscience as well as his Master? I answer, That Ignorance, and an ill-set Conscience, excuseth no more from doing what he ought; and Servants actions in general ought to be done about the Masters persons or affairs, in which it is a very hard matter for the Master to command any thing contrary to the Law of God, or his Country. But if the Master does command his Servant to do any act in prejudice to another, (if it be not so much as the Master cannot make satisfaction, as to kill or maim another) the Laws do make a favorable construction of what is done by the Servant, as Servant, and punish the Master as commanding, and not the Servant as doing in order to such commands. In a Masters commands to a Servant, is usually implied a Warranty which secures the Servant for doing what he commands him.

Injustice in Commutation.

18. It is Injustice in any man to tell another, that he gave such a price for such a commodity, whenas he gave not so much; thereby to deceive another, who believes him, and gives him thereafter to a greater value then the thing is worth. I say, this is a sin of injustice in the Seller; for, in Lying, he did falsifie the Law of the God of Truth, to the damage of the Buyer.

Of permissive Justice in a King.

19. In Justice commanded, no man ought to do more or less, but to the utmost of his power ought to do what is commanded him, in that formality as it is commanded. In Justice permissive, it is not always so; but the utmost or rigid exacting of what is permitted, is highest injury: As a King is permitted to execute his Laws; but the rigid executing of all Laws against all Offenders, at all times, without any consideration of inability, or other circumstance of person, time, or place, is highest injury to his Subjects: For it is impossible (though Laws should be general, and not respect the persons, but the good of the Subjects) that all Laws can, at all times, be alike observed by all Subjects: And therefore though it be permitted to a King to execute all his Laws, or else he should have none to be executed; yet in the execution of them he ought to weigh circumstances of person, time and place; whether it were the malice, or defence of the person offending; or whether he were able to fulfill such Law, or not, &c. Or otherwise, *Summum jus, est summa injuria.*

In a Subject.

20. As a King, so ought not a Subject rigidly to exact of another whatsoever is by Law permitted him, at all times: As a Tenant by sterility of the year, inundation of waters, &c. is so damnified, that he is not able fully to satisfie his Landlord, but to his utter ruine: I say, in such case the Landlord

Landlord ought to remit of what, by rigor of the laws, he might justly take; Or if in such case the Landlord shall rigidly exact his utmost due, to his Tenants ruine, (when it is not the Tenants fault) such exaction, such *summum jus, est summa injuria.* A man is permitted to sue any man for triflings, *tres passes* of *pedibus ambulando, &c.* yet if upon all occasions a man shall sue every man that steps out of the footpath, such a man will be counted a wrangling knave, and such suing *summa injuria.* Yet is not the Law in fault, but the men; for if it were not permitted to men to exact their rents, and sue for small trespasses, then would no Tenant pay rent, nor should any man be secure of enjoying what he is possest of.

Who is a just man. *Eth. lib. 5. cap. 2. 3.*

21. It is true that *Aristotle* says, *That he is a just man that keeps the laws, and that he is an unjust man who commits contrary to laws; and that therefore one Justice contains all other virtues.* God having made Man as well a sociable, as reasonable creature, and a free Lord of all his actions, whose will may freely imperate his actions (not as it is with irrational creatures, whose objects determine their actions) as he pleaseth; neither did ever yet in this world any man do any act virtuous or vitious, but it was freely in his own choise whether he had done it, or not: And by making him sociable, made him more excellent then the other creatures of this orb. We do not therefore look for Justice in so large a sense as *Aristotle* here takes; where every particular or personal virtue may be taken for Justice.

The excellency of Justice.

22. We take that virtne to be Justice, which conduceth to the preservation of Society; (for, other personal virtees, as Temperance, Chastity, Frugality, &c. although not as virtues, yet may they be found in other creatures:) which is only proper to Man, and wherein Man does excell all other creatures. And no question but that the meanest Servant, uprightly and conscientiously performing the trust and command which his Master commands him, is as just and honest a man, as the greatest man whatsoever.

Who is an unjust man.

23. Nor is it less true that *Aristotle* says, That he that commits any thing against the Laws, is an unjust man; and so the commission of any thing against the Laws, is a sin of injustice; and every sin, a sin of injustice: But by reason of humane frailty, it is very difficult, if not impossible for the most just man, not to be an unjust man, where injustice is taken in such a latitude: And in this sense, the most just and righteous Subject that ever was, stands in need of Gods mercy and the Kings. But the injustice we look for, we take in a more restrained notion; not every unlawful act done upon ignorance or passion, &c. but where men premeditately and wilfully make the laws of God or man, a cloke and pandar to shelter and hide their unjust and illegal actions: They that tread under foot all Sacred and Civil sanctions intended for the conservation of peace and society among men, to set up themselves above all laws of God or man; and to make way for their own lusts, in stead of Divine and Humane laws; They who, the Prophet *David* says, *imagine mischief as by a law:* Such men, such actions, are most properly unjust men, and acts of injustice. *Psal. 94. 20.*

How Injustice differs from Injury.

24. Injustice differs from Injury, only in agencie and patiencie, in him who does, and in him who suffers. It is injustice for any man, unjustly to make use of any law of God or man, or Temporal power (which must be from some law of God or man) to the hurt or prejudice of another; and such hurt or prejudice, is injury to whom it is done.

Damage

How Injury differs from Damage.

25. Damage is nothing else but loss; Injury is loss unjustly done. So that all Injury is damage, but every damage is not injury: As a man hath a house &c. burnt by lightening; this is damage, not injury: A man is punished justly for some fault; this is damage, no injury. Injury always is done by injustice, that is, when the doing is countenanced by some Law, or Greatness: Damage is, when the doing is neither countenanced by Law or Power; as Neighbors who live by one another, do usually do one another Trespass, which is damage, but no injury.

Volenti non fit injuria, how to be understood.

S. Matth. 25, 26, &c.

26. We have declared before, that no man ought to make use of (or abuse indeed) any gifts whereby he does excell another, to the damage and hurt of another, who is not so well qualified. And no question but that God will require of every man an account of all those talents wherewith he did entrust him for good: And if he were pleased to punish him so severely, who had hid his talent, because he had not increased it and done good; how severely then will God take revenge upon him, who abuseth those natural gifts wherein he excells another, to the hurt and prejudice of his weaker brother? But humane laws being made for the rule of outward actions, (for only God sees the hearts and inward thoughts of men) Courts of Judicature cannot judge whether it were this mans folly, abused by the craftiness of another; but whether this man did this thing, or not; and no Fool or Madman shall be received against his own act, although his Heir shall. It is not therefore that an innocent or foolish man may not be injured, although he will willing; but that he shall not be judged injured by any Civil Court, where it may be made appear he was willing.

pag. 747. *Plato's* opinion of Justice.

27. *Bodin* in the sixth book *cap. 6. de repub.* says, That *Plato* judged that the best form a Commonwealth, which was compounded of Popular command, and a Tyrant: (Note, the *Grecians* did usually call Kings Tyrants, and did many times take Tyrant in a good sense) yet dissenting from himself, he made his *Civitas* not only in State, but also in manner of Governing, Popular; as one who gave to the multitude of all the Citizens the power of making Laws, of creating Magistrates, of indicting War, of making Peace, and lastly of giving rewards and punishments. A *Civitas* being established after this manner, he denied it could be happy, unless it were governed by a Geometrical proportion; for he thought that God, the most antient Moderator of this world, whom every best Lawgiver ought to imitate, does preserve all things in Geometrical proportion. He was often wont to boast, ἀεὶ τὸν θεὸν γεωμετρεῖν. Which things, although they be *Plato's*, yet are no where found in his writings. But a Popular Empire constituted by *Plato*, is plainly contrary to Geometrical proportion, because the people follow an Equality of things: And Equality agrees with Arithmetical proportion, no ways with Geometrical.

Rejected by *Bodin*, as repugnant to himself.

Xenophons opinion of Justice.

28. And because *Xenophon*, emulous of *Plato*, thought that Cities and Laws ought to be constituted and distributed in Arithmetical equality, induces *Cyrus*, as yet a boy, beaten, because created a King by his companions, he had so commanded the Vestments to be exchanged, that the greater were given to the greater, and the lesser to the shorter. *Cyrus* so beaten by his Master, is taught that he is born a *Persian*, and therefore should use the laws and manners of the *Persians*, which give that to every one, which is his property; not the *Medes*, who thought that, that was to be given to every one, that was fit and commodious for him. *Plato*, when he was advertised the

the stripes were to be inflicted upon him, not *Cyrus*, rejected *Cyropædia*. This contention therefore of *Xenophon* and *Plato* being divulged by speeches among the *Grecians*, afforded increase to two factions of the Great men, and People: Some following the Popular state, did greatly love the Arithmetical proportion of Justice; Others, because they did excell in Riches and Nobility, were not less in love with the Geometrical proportion, agreeing with Aristocracy. (But it is strange, *Plato* bred in a Popular State, should assert Justice to be in Geometrical proportion; and *Xenophon* in a Mungrel Aristocracy, made up of two Kings and the *Ephori*, should assert Justice to be in Arithmetical.)

29. Justice in Arithmetical proportion, he says, was like *Polycretus* rule, of all the most right, and as it were, Iron macerated with Vinegar, so as it should be inflexible. The Geometrical form of governing a City, did imitate a *Lesbian* Rule; for, this was made of Lead, and flexible in every part, that so it might be accommodated to every thing, that nothing might be lost of the matter of it, so far as it might be done. But this (he says after) being so flexible, loses the name of a Rule. *Pag. 751. d.* compared.

30. But neither of these forms of Justice will down with him: For in the Arithmetical form, he says, That women, tender and young children, old men, and those afflicted with sickness, should have the same punishment for the same offence, with robust and stout men; which might be fatal to one, and not scarce felt by the other. Yet was this against the practice of all Democratical States; for neither in the *Roman* nor *Athenian* States, were all men alike punished for the like offence: The *Romans*, who were *civitate donati*, were not by the Laws to be put to death, nor punished as Slaves for any offence. Nor were the Popular States less dissenting from their Principles in conferring rewards and greatness upon men: For, when were men ever so great, as in Popular States? as *Pompey*, *Cæsar*, *Crassus*, *Lucullus*, *Pericles*, &c. 764. *Xenophons* opinion rejected by *Bodin*, and why.

31. Nor is he less out of love with the Geometrical form of Governing, or Justice; for then, he says, all Patricians or Noblemen must marry only with Patricians, and Plebeians with Plebeians; all places of Honor must be always conferred, not for virtue or desert, but as men were Great, or Noble: So that from hence he says, were almost perpetual dissentions between the Senators and Plebeians, until the Consulship, Censure, Preture, and the High Priesthood were communicated to the Common people, some few excepted. *Plato's* rejected also, and why. *p. 774. d.*

32. Well, but because *Bodin* cannot find Justice to consist in Arithmetical nor Geometrical proportion, he will try what may be done by Harmonical, and says, That is worthy consideration, that they have divided both proportions of Justice, but have no where remembred the proportion of Harmonical Justice. Neither any of the Latines, or Grecians ever accommodated Harmonical proportions, either to the distribution of the Laws, or the moderating of the *Civitates*, (Governments I think he means) which as it excells the other in dignity, so also is it referred to the Regal kind of *Civitas* which we seek for, after a certain manner attempered by Aristocratical and Democratical proportion. (*We shall, I believe, find a very odd Harmonical proportion, after a certain manner attempered by Arithmetical and Geometrical proportion.*) *Bodins* opinion of Justice. *p. 747. d.*

How proved. *Pag.*751. *C.*

33. He defines the form of governing of a *Civitas* in the Harmonical Laws of Justice, to consist in these four terms, *viz.* The Law, Equity, the Action of the Law, and the Office of a Judge, which have the same proportion among themselves, that these four numbers, 4. 6. 8. 12. have. For what proportion 4 hath to 6. the same hath 8 to 12; and again, what proportion hath 4 to 8. hath 6 to 12; so also is *Lex* to *Equitas*, and the Action of the Law, to the Office of the Magistrate, and contrariwise; for the Action serves the Laws, and the Office of the Magistrate, Equity. But if you should transpose the numbers compounded by Harmonical Law, and make the Magistrate above Equity, and the Action superior to the Law; the Harmony of the City, and Concent of Musick will perish. It would vex any Saint, much more any ingenuous Reader, to see what a stir he keeps with converting numbers, in continued and dis-joyned Geometrical proportion, and all to no more purpose, then to read all the particular stories which he cites and makes to prove any of his Positions: Nor does he ever shew any colour of reason, how Law, Equity, the Action of the Law, and Office of a Judge, have like proportion to one another, as 4. 6. 8. 12. have.

Examined in his Politicks.

34. He says a little above in this Page *B.* and truly, that the Lesbian Rule, if it may be wreathed, because it is made of Lead, does lose the name of a Rule; and the force and name of a Law does perish, if a Judge may so bend and unbend it, in all the parts thereof, by his arbitrament, as if he were a Moderator and Arbiter of the Laws, which ought to be a Minister of them; (now if by Equity he does not mean moderation of the Laws, let him mean what he will for all me; nor does he ever say what he means by it) yet he says, That as the Magistrate is the power of the Law, so is Equity in the power of the Magistrate, which is inconsistent with what he said before, That the Magistrate who is a Judge, cannot be a Moderator of the Laws; and with that which he propounds in his terms of Harmonical Justice, that the Office of the Magistrate or Judge, is subservient to Equity; nay he says, That the Harmony of the *Civitas* does perish, if the Judge or Magistrate be above, or superior to Equity. Here is fine Harmonical consort indeed, where the Judge or Magistrate is made onely a Minister, and not a Moderator of the Law; where the Office of the Judge is made subservient to Equity, and yet Equity to be in the power of the Judge or Magistrate; and the Harmony of the Citie to cease, if the Judge or Magistrate be above, or superior to Equity.

*Pag.*755. *A.*

His Mathematicks examined.

35. First, Let us see whether he hath better success with his Mathematicks, then with his Politicks; although here he onely affirms 4. 6. 8. 12. to be in Harmonical proportion, yet he does not go about to prove it before *Pag.* 774. Well, but before we examine it, let us take the definition of Harmonical proportion: Harmonical proportion is, when three numbers are so ordained, that the difference which the Major and the Minor extream, have to the mean, is in the same proportion that the Major, is to the lesser: As 3. 4. 6. are in Harmonical proportion, because the difference which 6. the Major extream hath to 4. is 2. and the difference which 4. hath to 3. the lesser is 1. Now 2. the difference of the Major extream 6. to the *medium* 4. being double to the difference of 4. the mean, to the lesser extream 3. and 6. the Major being double to 3. the Minor, 3. 4. 6. are in Harmonical proportion. *Bodin* says, 4. 6. 8. 12. are in Harmonical proportion, as the proportion of the first to the second, and the third to the fourth is Diapent.

Page 774.

And

And again, the first to the third, and the second to the fourth is Diapason, the proportion of the second to the third containing a Diatesseron, coupling the first with the extreams, the means to either, procreates altogether a most sweet concent. But how does the Analogy of the second to the third, of 6. to 8. couple the extreams of 4. and 12. or how can 4. 6. 8. 12. be in Harmonical proportion; when as the difference of 12. to 8. and 6. to 4. is but double, and the proportion of 12. to 4. triple? His first instance refelled.

Secondly, But though he hath not found Harmonical proportion here, (sure then his Harmonical Justice upon which it is built, will be but a very mean structure) it may be he findes it somewhere else, where he says, 4. 6. 8. are in Harmonical proportion; which because the difference of 8. to 6. and 6. to 4. is equal, and the proportion of 8. to 4. double, is impossible by the definition. His second confuted. *Page, mar.* 750.

Thirdly, Well, he hath but one instance more of Harmonical proportion that I know of, and if he be out at that, he is past cure, for ought I can help him. He says, that 1. 2. 3. 4. are in Harmonical proportion, he would prove it *Page* 776. *A.* the number two to three constitutes a Diapent, the number three to four a Diatesseron, the extreams from one to four a double Diapason: But this is nothing to Harmonical proportion; nor is it possible that 1. 2. 3. 4. should be in Harmonical proportion, when as the difference of 4. to 3. and 2. to 1. is equal, and the proportion of 4. to 1. is quadraple; nor can 2. 3. 4. be in Musical proportion; for the difference of 4. to 3. and 3. to 2. equal, and the proportion of 4. to 2. double; nor of 1. 2. 3. For the differences of the greater extreams are equal, and the proportions triple. *Page* 775. *D.* None of his numbers in Harmonical proportion.

36. *Aristotle Ethicks, 6 Book, Cap.* 7. declares the proper nature of particular Justice into Distributive, Corrective or Commutative Justice: This latter he says is in Arithmetical proportion, the former in Geometrical. Corrective, or Commutative Justice consists in Promutation, Buying, Selling, Exchange, *&c.* where the person of the buyer is not to be considered, whether greater or lesser, richer or poorer; but an equal value or price is to be taken by the vendor for such a commodity, be the buyer rich or poor. Distributative Justice consists he says in Geometrical proportion, and is referred to the dignities and merits of men; so that here men ought to respect the person and the quality of him, to whom any thing is attributed or given, κατὰ τὴν ἀξίαν, more to him who is more worthy, and less to him who is less worthy. *Aristotle* divides Justice into Corrective and Distributative.

37. It is true indeed, That if in Promutation a man sets such a value upon such a thing, and does not respect the person or quality of any buyer, that then such vendor does equally to all sellers, and in exchanging observes Arithmetical proportion: But if it be true, as it is that he says, That he is a just man that keeps the Laws, and that there be no Law which sets a price upon what thing the seller exchanges, or sells to another; then it cannot be a sin of Injustice for any vendor, not to observe this Arithmetical Rule which *Aristotle* propounds in Promutation. Corrective Justice examined. *Eth. l.* 5. *c.* 2, 3.

38. Nor is it less true, That if a Prince in conferring honor, or otherwise rewarding a man for any merit, or great service done to him, or his Countrey, gives more honor, or reward to such a man, then to another deserving less; then such a Prince does a prudent action, and observes Geometrical Distributative Justice examined.

metrical proportion in it; but what is this to Justice: For if there be no Law commanding such a thing, then cannot the not doing of it, be a sin of Injustice; nor is it properly a sin of injustice, not to reward or repay benefits, but of ingratitude.

Grotius his opinion of Justice.

Grotius, Lib. 1. *Para.* 8. disputes against the opinion of *Aristotle*, That Justice is properly distinguished into Arithmetical and Geometrical proportion; but *Paragraph* 9. where he should declare what Justice is, he onely confounds, *Jus, Lex, & Justitia*; and instead of setting down what Justice is (which he neither does here, nor any where else that I know of) he forsooth divides *Jus* into *Jus naturale, & voluntarium*; which may signifie either of them, or both together *hum drum*. Community and Property, the Law of God, immutable by God himself, and yet mutable by the will of Man. In the Dedication of this *Jus Belli & Pacis*, he makes *Lewis* the Thirteenth to be just, because he does by imitating him, honor the memory of his Father; (yet do I think there were scarce ever two men more unlike;) and just, because he does by his example, instruct his Brother; and just, because he gave his Sisters great Portions; just, because he inflicts no great punishment upon his rebellious Subjects, (sure never man took Mercy for Justice before;) and just, because he allows his Subjects Liberty of Conscience.

Chap. II.

Of Obedience.

Obedience, what.

1. Obedience is the accepting of the Law or Command of him, who by right commands; when I by no act of my will put any obsticle, whereby such Law or Command, may be executed or received.

How Obedience differs from Justice.

2. Obedience differs from Justice, as a part differs from the whole: Obedience is implyed in Justice, Patience is onely necessary to Obedience, but Agency to Justice. Every just man must be an obedient man; but the converse do not always hold, That every obedient man, is a just man. As a Prince commands such a man to be a Justice of Peace, *&c.* in such a Town or Division, he is received by them of the Town or Division. This is an act of Obedience in them of such a Town or Division; not of Justice, because they are Patients onely, and not Agents.

How Disobedience differs from Injustice.

3. Disobedience is the refusing to accept the Law or Command of him, who by right commands. Injustice is the counterfeiting Obedience to Laws, and yet abusing them to the prejudice of another: As he who by right commands me to do such a thing, if I refuse to do it, This is a Sin of Disobedience: If I undertake to do it, and instead of upright doing of it, I abuse it to the prejudice of any man; this is a Sin of Injustice.

4. Obedience

4. Obedience is not only a virtue in it ſelf, but alſo the firſt and only Introduction to all virtues Theological and Moral. For not only in Moral virtues I muſt ſubject my will to the rule and precept of him who by right commands; but alſo in Theological virtues my will muſt be the patient, and admit of Gods grace, as the prime and efficient cauſe, before it be poſſible that I ſhould be qualified to do any virtuous action, either Theologicall, or Moral; and God (being all good, and a lover of Man, and hating nothing that he hath made) freely offers this his grace to all men; and it is mans fault and ſtubbornneſs that he refuſes to admit of this grace of God; without which nothing can be good, nothing can be juſt, or virtuous; without which no man can reaſonably hope for any Temporal happineſs in this world, or eternal Beatitude in the world to come. The Excellency of Obedience. *Philanthropos*

5. It is not alwaies the doing, or abſtaining from what is commanded or forbidden, which is virtue, but only the ingenuous and upright doing or abſtaining from that, which is commanded or forbidden, as it is commanded or forbidden by him who by right may command or forbid. I ſay that Ingenuity, integrity, and abſtraction from all affections of profit, pleaſure, love, hate, feare, &c. are eſſential to all virtues; for if the doing or forbearing any action proceeds from any of theſe cauſes, then is not that action virtuous, but profitable, pleaſant, lovely, hateful, fearful, &c. *Jehu* did what God commanded him in executing Gods judgements upon *Ahabs* poſterity, but not doing uprightly what God commanded him, in that formality as God commanded him; but if *ye be mine, and will hearken to my voice, take ye the heads of your Maſters Sons, and come to me to* Jezreel *to morrow by this time*, and then inſtead of pittying ſo great a calamity upon ſo many young Princes, inſulting over them, he in deriſion ſaies to the people, *Ye be righteous: behold I conſpired againſt my Maſter and ſlew him, but who ſlew all theſe?* hence it was that God ſaid, *I will avenge the blood of* Jezreel *upon the houſe of* Jehu, ſay Interpreters: But it was a virtue in *David* to forbear the killing of *Saul*, whenas he could have done it, and was promiſed by God to be King after him; and in *Jehodajah* to preſerve *Joaſh*, although by danger of his life. It was not virtue in *Amnon* to abſtain from the company of *Tamar*, whenas he hated her becauſe he had abuſed her; but it was in *Joſeph* that he refuſed to accompany his Miſtreſs, whenas he might have ſecurely enjoyed her. Nor is it any virtue for any man to do, or forbear any thing for feare of puniſhment, for ſo horſes, dogs, and other irrational creatures, will do or not do many things for feare of ſtripes, which are commanded or forbidden by their Maſters. Nor is it any virtue in a Judg to pronounce true judgment if he be hired thereunto by any reward, or bribe. Where therefore neither worldly pleaſure, profit, love, feare, hate, nor any ſublunary thing, (but it may be loſs to all theſe) do not move a man to the doing or not doing of what in conſcience he ought to do or forbear; there nothing leſs then Gods grace and power in ſuch a man, can be the true and efficient cauſe of ſuch an action. Gods Grace only is the true and efficient cauſe of virtue in men 2 Kings 10.6. Verſ. 9. Hoſea. 1, 4.

6. It is a moſt admirable thing to conſider how (notwithſtanding all the various natures, diſpoſitions, and events of things) this one Providence, foreſees and provides for all created things in the whole univerſe, until ſhe brings them all to their deſigned end. Nor does this providence foreſee and provide for all things from an eternal, and fatal decree impelling all actions of all creatures. For then there could be no ſuch thing as good, or bad men, Why only Man can do virtuous Actions.

men, but God were the efficient cause of vice, as well as virtue in men, but by a mean foresight or knowledg does often determin necessary effects from contingent causes. Which does not only plainly appear from very many places
1 Sam. 23. 12. of Scripture, as that the men of *Keilah* would have delivered *David* if he had not escaped thence; that God would have destroyed *Niniveh* within forty daies, if the men had not repented; that God would have gathered
Matth. 23. 27. the children of *Jerusalem* together as a Hen gathereth her Chickens, but they would not; that if the mighty works had been done in *Tire* and
Matth. 11. 21. *Sidon*, which were done in *Chorazin*, they had repented in dust and ashes, &c. but also all Gods promises and cursings upon men do depend upon their obedience, or disobedience to what he commands. And however this rigid opinion of Fate, and the eternal determination of all things be asserted by the Stoicks; yet do not I think that the most wicked man that ever was, did ever attribute any wicked action to any such cause; but pretended conscience, pleasure, profit, or his own will (never Gods.) It is true indeed that God hath made man in flesh and blood, and so prone to desire many things which he ought not: But though diverse men do naturally affect and desire things they ought not; yet God hath so made every man a free Lord of all his actions, that there is no man but may chuse whether he will do, or not any thing to the attaining of his appetitions and affections. And mans excellency above other creatures consists in this, that his actions are not determined by his objects, as other creatures are; but he may freely do this action, as it is moved in him from the appetition of pleasure, profit, pride, &c. or abstain from it as he apprehends it forbidden by him who may forbid: And so may any man freely do or endeavor to do any thing which he ought to do, though to his temporal disadvantage, (but this having no Temporal motive, must proceed from Gods grace) which no creature upon earth can do but only man; only man therefore can do virtuous actions.

Chap. III.

Of Judgment.

What is Judgment.

1. Judgment is the definitive of him who by right commands, permits, or forbids a thing, either by himself or instrument, whether any thing be done conformable to a Law commanding, permitting, or forbidding it.

How it differs from a Law.

2. Herein judgment differs from a Law. A Law is the declared will of him who by right commands, permits, or forbids a thing, together with a penalty annext for not observance, after some reasonable time fixt whereby the obliged may take notice of such declaration. Judgment is the sencence of him who so commands, forbids, or permits, whether such an act were an omission or transgression of any Law so declared.

How Judgment differs from Justice.

3. Justice is the upright doing of any just or legal action, conformable to the Law of him who by right commands: Judgment is the discerning of a good or bad action.

4. All

4. All judgment must necessarily be the act of three persons at least, *viz.* the Judge, the accuser, and the party accused, or as we say, the Judge, the Plaintiff, and Defendant. What persons are necessary in Judgment.

5. The end or *ratio finalis* of Judgment, is either to determine differences, or punish offenders. The end of Judgment.

CHAP. IV.

Of Equity.

1. EQuity is twofold, either a remission or moderation of the Laws when the execution of Laws will rather kill then cure a distemper in the Subject; as when many Subjects either upon passion, or being seduced, have so far transgressed Laws, that they have forfeited by Law their lives and estates; yet in such case are not supream powers rigidly to exact all which the Law gives them, but it is equity so to punish the principal Authors, and other Subjects, that others may be deterred from the like, and the generality offending, preserved. So where the Law commands upon penalty, and it becomes impossible for the Subject to perform, (as it ever was, and will be) there it is equity to remit the penalty. Where therefore the Law obliges a Tenant to pay his Landlord such a Rent, yet if by inundation of waters, sterility of the season, &c. it comes to pass that the Tenant by no fault of his, either cannot, or it will be the ruine of himself and family, to pay it, there it is equity in the Landlord to remit, or moderate what by Law he might justly exact. How manifold is Equity.

Or secondly, a supplement of the Law in cases wherein things in conscience ought to be done, yet for want of some formalities, or niceties they cannot in strictness of Law be exacted.

2. Equity is, when with a sincere intention, men (although it be to their prejudice) endeavor to please God. Judgment, a giving sentence according to Laws. How Equity differs from Judgment.

3. In Courts of Judicature, the Judges proceed according to the declared Laws, and ought not in judgment to vary or swerve from them, but proceed as they are impowred by Law and their Commission; and Laws are made usually *ad terrorem*, rather to affright men, then to punish all offenders; which Laws were they not moderated, it were impossible for all men to subsist under the burden of them; nor is there any man but has need of Gods mercy, and the Kings. Courts of Equity therefore are as necessary, as Judicial. The necessity of Courts of Equity.

The end of the Fourth Book.

The

The Contents of the Fifth Book.

HAving before treated of the Causes of all Regal and Ecclesiastical power; and having in the last Chapter of the Third Book treated of the Laws and Civil Government of this Nation, being the exercise of Regal power in reference to the publick preservation of Peace and Society in it: In this First Chap. we shall treat how far Ecclesiastical power has been exercised in this Nation, and by whom; Whether originally the Britanick *and* English-Saxon *Churches were free, or subject to the Papal power,* quoad exercitium? *And whether as well before the Conquest, as after, the Kings of this Nation were not Nursing Fathers to the Church of Christ? And whether always before the Conquest, the Royal Government did not extend as well to the Persons, as Possessions of Ecclesiastical persons? And whether all Bishopricks were not originally of the Kings foundation?*

In the reciting the Ecclesiastical Laws made by the Kings and Queens of this Realm, we shall observe three periods, viz. The Ecclesiastical Laws made by the Kings of England *before the Conquest; The Laws made by the Conqueror and subsequent Kings, until* Henry *the Eighth; And lastly, the Laws made by him, and the Kings and Queens after him, until the end of King* Charls *his Reign.*

*Note (*good Reader*) that in the reciting of these Laws, I do not affirm that these Laws made by the Kings of this Realm, did never intrench upon that Ghostly power which our Saviour by Divine positive institution left only to his Church; and therefore make no construction upon them, but only when they are recited and objected as Authorities against that Power. My designe is to shew, (having already demonstrated, that by the Law of Nature, the persons of all Subjects born in the dominion of rightful Kings, are their natural Subjects, which is an indelible character, and can never be washed out; and therefore Subjects being Ecclesiastical persons, cannot free them from it: And that all priviledges and endowments which Ecclesiastical persons enjoy besides their ghostly power, is created by the King;) That the exercise of the Kings power over the persons and possessions of Ecclesiasticks, as also Laws made by them for the order and preservation of the extern peace of the Church, is no new thing, as hath been by some objected.*

THE

THE FIFTH BOOK.

CHAP. I.

How far the Kings, Popes, and Biſhops of England *have exerciſed their Spiritual Juriſdiction in* England *before* Henry *the Eighth.*



I cannot, ſure, be reaſonably denied by any man, but that Ignorance is the mother of all Error; nor is any man better in any kind whatſoever, for being innurtured or ignorant: We daily ſee no where more feuds and diſſentions, then among ignorant and mean men; which, were there not Laws to decide their difference, would be endleſs, and Mankind left in a worſe condition then any other creatures. Nor is Education and Learning any cauſe of the diſſentions and debates which ariſe among learned, and better educated men; but ſome internal cauſe proceeding from pride, or ſome other appetitions or affection in them. And though Education and Learning does not totally alter mens natures from bad to good; yet does it ſoften mens manners, and makes them not to be ſo bruitiſh as thoſe who are deſtitute of Learning and Civil breeding: For,

Apology.

If learning or knowledge were the cauſe of diſſentions or diſtractions, how them comes it to paſs that all diſſentions are determined by learned and knowing men, or elſe they would be endleſs?

——Didiciſſe fideliter Artes;
Emollit mores, nec ſinit eſſe feros.

It is true indeed, that in that ſtate in which God hath placed all men here, they do not ſee all things truly; but men are, and always were, and will be ſubject to humane error and frailty; and in many things (notwithſtanding all the arts and helps which can be deviſed) men will never be reconciled. But that men ſhould therefore condemn all Science and Learning, is like to a man that, if he ſees and hears not all things diſtinctly and clearly, (although it may be he ſees and hears well enough to do things which are neceſſary for his conſervation) that therefore he will put out his eyes, and have his ears always ſtopped. Nor ſhall ever ignorance of any mans duty, totally excuſe him for his not obſervance of Laws, be they Divine or Humane: Nor ſhall the blind belief of Subjects in their Superiors, whether Eccleſiaſtical or Temporal, ever totally excuſe them from thoſe things which are due, and they believe that they owe to God. I am not ſo very a *Hobbian*, as to believe that it is impoſſible for Supreme powers to command any thing contrary to the Law of Nature; nor yet ſo very a *Papalian*, as to think that the Pope is infallible: Eſpecially ſince it is evi-
Exod. 32. dent, that *Aarons* joining with the people in their idolatry, did not excuſe the *Iſraelites* of old; nor did the command of both King and Prieſts ever under the Old Law excuſe the ſubject *Iſraelites* from Gods judgments upon them for their idolatry. Nor is this very opinion of them in the Church of *Rome*, of the Popes infallibility, believed by themſelves, however urged againſt others who are not of her communion: For then were not only General Councils ſupervacaneous and uſeleſs things, but alſo there could be no difference among them which is ſuperior, a Pope, or General Council. Nor do they leſs deny it in their practice, then their opinion: For when *Sixtus Quintus* had excommunicated (9 *Sept.* 1585.) the King of *Navar* and Prince of *Conde*, and as he affirmed, made them uncapable of ſucceſſion to the French Monarchy; yet were moſt part of the French troubled at it, doubting the Priviledges of the Gallic Church would be trodden under foot, (which they needed not have doubted or feared, if they had believed the Pope to have been infallible;) and all the Parliament of *Paris* (who were all of the Church of *Rome*) deſired the King, *Henry* the Third, to have the Bull torne in pieces, as you may read, *Davila* 575. And the Parliaments of *Chalons* and *Tours* did not only decree the Bull of *Gregory* 14. to the Prelates and Catholiques of the Kings party, (under pain of Excommunication, of being deprived of their Dignities and Benefices, and of being uſed as Hereticks and Sectaries, that within a certain time they ſhould withdraw themſelves from thoſe places that yielded obedience to *Henry* of *Bourbon*, and from the union and fellowſhip of his Faction) to be publikely burnt; but it was ſo far rejected and ſcorned by the very Prelates and all other Catholiques of the Kings party, that it did extreamly confirm them all in the Kings obedience, being before unſetled and inclining to the Cardinal of *Bourbons* faction; as you may read more at large in the Twelfth book of *Davila's* Hiſtory.

But it may be they will ſay, That this was not in matter of Faith, and that the Popes infallibility is affixed to Faith. Yet this can be no objection by thoſe men, who aſcribe all infallibility to the Pope, and that all his Acts and Decrees are to be received and obeyed, by an implicite faith, as Divine oracles. Well, but ſuppoſe theſe determinations of the Pope were not concernng matters of Faith, (as no doubt they were not) then how comes

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the Pope, because he is infallible in the Faith, that he takes upon him to be Judge and Determiner of those things, which no ways appertain to it, but are as much where Christianity is not planted, as where it is.

Yet it will be objected, *That if the Church be not Judge of what conduceth to the peace and safety of the Kingdom and Church, then who shall? and so farewell to all Government, and peace in Church or State.* Object.

But before I answer this *Quære*, I would be resolved one Question, or two: Who shall be Judge whether the Pope, or a General Council be superior? Who shall judge whether in any Determination of the Popes, it be concerning matter of Faith or not? or whether it be determined *in Cathedra* or not? In the many Schismes of the Papacy, who should judg who was the true Pope? or who shall judg whether *Alexander* the tenth be now the true Pope? or who ever gave the Cardinals (who were an humane institution many hundred years after our Saviour) this power of Election of the Pope, that whosoever they should so elect should be universal Bishop, and St. *Peters* successor?

Although I might justly insist hereupon, nor can these things upon these mens principles, who maintain the Popes infallibility, (at least in my understanding) be solved; and so are they, for all their boast of unity among themselves in as much confusion and dissention even in their very principles, as other men; yet am not I ashamed to give an account of my obedience both to my Church and King.

I say, that God hath made man a sociable, intellectual, and reasonable creature, and endewed him with an immortal soule potentially capable of eternal happiness. Nor will God be served by man, having so made him, only by a base servile feare, and without the intellectual and rational faculties of the soule, and therefore has engraven by nature in the heart of every man, certain rules by which he is to direct his actions, which are the first principles and foundations upon which I honor my Parents, King, and them who are set over me for my direction, in order to my eternal good. And although that out of the Church, and not being preserved by humane Laws, I can neither hope for safety in this world, nor salvation in the world to come; yet who he is, from whom all humane Laws are derived, or what is the Church in which I must hope for salvation, there is no visible Judge under Heaven, but only mens consciences to direct them, *viz.* those directions which God either by nature has given to men, or revealed supernaturally in the Scriptures. Nor does a mans conscience thus informed, leave him after it be informed who it is from whom he ought to expect protection, and to whom he owes his obedience, as well spirituall as temporal; for though there be no visible means for men to hope for peace in Church or State, yet does it not follow, that by all men, all things which may be commanded for the Laws of the Church and State, are to be observed as the Laws of Church and State; as if the Church command men to worship Images, or any creature for the Creator (which under the old Law it many times did, nor do I understand how it can be excused in the Church of *Rome*) or if men be commanded by higher powers, immoral things, as to dishonor them, or their Parents; or whenas temporal powers command things plainly derogatory to the ghostly power of the Church; or the Church commands things contrary to the duty men owe to their King and Country, which we daily see both the one, and the other do, which makes some men in their passion ultimately resolve their Temporal Answer.

and Eccleſiaſtical obedience into the Church; others into the ſecular power: and many deny all obedience to either, and ſet up themſelves, or ſomething elſe in ſtead of either. But though mens affections carrie them ſeveral waies, yet ought not all reaſon therefore and conſcience to forſake all men; for although I ought not to judge either King, or Church, if they command any thing they ought not, yet have I and every man elſe a conſcience to direct them whether I ought to do all things whatſoever commanded by King or Church. Nor ought men to be frighted out of their conſciences, *viz.* the Law of God by nature informing them, or his Law ſupernaturally revealed, by his grace directing them, becauſe a perverſe company of Schiſmatical and ſeditious men, have abuſed all Temporal and Eccleſiaſtical Laws and Powers, by pretending conſcience. Nor will a blind obedience in all things to the Church of *Rome* cauſe unity and peace among Chriſtians, although it be ſo much magnified by them: for let any man read the lives of *H.* 4. 5. 6. and 7. and *Frederick* 1. and 2. Emperors, whenas the whole Empire was of the *Roman* Catholick Religion, and ſee if ever greater broyles were in the Chriſtian World, and let them judge whether Obedience to the Popes by ſo great a part of the Empire, were not the cauſe of them? or whether all the Wars in Chriſtendom cauſed by *Boniface* the eight, and *Julius* the ſecond, were not againſt Chriſtians in the communion and form of the Church of *Rome*?

But where ſecular or eccleſiaſtical Laws do plainly command things, not plainly derogatory to Gods Law, (for where they do, God is in all things to be obeyed before man) ſo as it is doubtful whether they do repugne Gods Law or not, then certainly the beſt way is to ſubmit to them; for a mans conſcience wrong informed does not excuſe him from any Article of his duty; and if it may be the Laws do repugne Gods Law, it may be they do not; and in controverted and doubtful caſes, the Law is alwaies preſumed to be on the Governors part. Nor ſhall any mans conſcience ever excuſe him, if the Laws either of Church or Country do command things repugnant to Gods word, from the duty and obedience he owes to them in all things, where they do not repugne it. Nor does it free any man from his ſubjection to higher power, but where he cannot ſubmit, he ought to ſuffer. And no queſtion that where two evils unavoidable happen, the leaſt is to be taken; as if a man in the communion of the Church of *Rome*, be reduced to that neceſſity of ſimply conforming himſelf to all things uſed in the Church of *Rome*, although his conſcience cannot digeſt many things, or be excluded out of the viſible Church of Chriſt, he had better be of ſuch a Church, then of none at all.

Sure God never affixt ſuch infallibility to men how great or good ſoever, that ſimple and blind obedience ſhould be alwaies given to their Laws; as if there were neither Laws of God, or any to whom they were given, intellectual or reaſonable creatures. And though no man ought to cenſure, much leſs to reproach the actions of his ſuperior, yet are no mens actions ſo cenſured, as great mens, and ſo much the more by how much the greater they are: for,

Juvenal. *Omne animi vitium, tanto conſpectius in ſe*
Crimen habet, quanto major qui peccat habetur.

And if *Sabinianus* were so malitious a detractor from the works of St. *Gregory*; if *Bonifacius* the eight used such undue means for the attaining the Papacy; if *Gregory* the seaventh were so wicked as the Council of *Brixia* makes him; if *Alexander* the sixt were so wicked a man as *Platina* makes him; if so many decrees of the antecedent Popes have been abrogated by the subsequent Popes; if *Marcellinus* burned Incense to Idols; if *Liberius* consented to the *Arrians*, and gave his suffrage to the condemnation of St. *Athanasius*; if *Honorius* were condemned for a Monothalite by the sixth general Council; if *John* 22. were condemned by the Divines of *Paris* for teaching that the soules of the just shall not see God untill the general resurrection; then is it not possible, but that either contradictions are no contradictions, but the same things, or the Popes have not alwaies been infallible. But it is more then time to return to the question.

By whom Christian Faith was first preached, and a Church planted in *Britain*. *Lib.* 2. *cap.* 40.

1. That St. *Paul* did preach the Gospel here in *England*, is affirmed by *Theodo. lib* 9. *de curandis Græcorum affectibus*: *Paulum è priori captivitate Roma dimissum, Britannis & aliis in Occidente Evangelium prædicasse.* And *Nicephorus* saies that *Simon Zelotes Doctrinam Evangelii ad Occidentalium oceanum insulasque Britannicas perfert.* But that ever a Christian Church was planted in this Island, before that at the request of King *Lucius* (in the reign of *Commodus*, and not of *Marcus Aurelius*, and *Lucius Verus*, as *Beda* saies) *Elutherius* sent *Fugatius* and *Damianus*, I do no where find; for not only the superstition of the *Druides* was publickly professed, but after that a Christian Church was planted, *Lucius* converted the three *Archiflamines* of *London*, *York*, and *Carleton* into Archbishopricks, and the other *Flamines* into Bishopricks. Yet that ever after the Bishop of *Rome* did claim any power or jurisdiction of these *British* Churches, I no where find; nay the contrary is very probable; for they not only adhered in the observation of *Easter* to the Eastern Church, from St. *Johns* observation thereof at *Ephesus*, and not according to the determination of *Pius*, *Anicetus*, and *Soter* Bishops of *Rome*; but also the *British* Bishops when *Augustine* was sent by St. *Gregory* to preach, and convert the English *Saxons* to Christianity, did refuse to acknowledg any superiority from him, nor by any perswasion or command of him would, or could leave their ancient usages without consent of their fellowes, as a man may see in *Beda*. Nor were these Bishops in those daies ever esteemed (nay not by *Beda* himself, as much a reverencer as he was of the Church of *Rome*) Hereticks, or Schismaticks, and out of the Pall of the Church, &c. but right Catholick and godly men.

Platina in vita St. Eleutherii.

Beda lib. 2. *cap.* 2.

Lib. 2. *cap.* 2.

Lib. 2. *cap.* 2.

The conversion of the English *Saxons*, by the Pope *Gregory* the great.

2. That the English *Saxons* after they had driven the antient *Britains* not only out of all that part of *Britain*, which is now called *England*, some into *Britaigne* in *France* called *Britania Armorica* (from whence it is supposed that Country took its denomination) others into *Wales*; but also Christianity it self; and themselves continued *Pagan* untill they first received the Faith by the preaching of *Augustine*, and *Miletus* sent by *Gregory* the great; is consonant to all the Histories of the Church, nor does to me appear any colour of Reason, or Authority to the contrary.

Neither St. *Gregory* nor any of his predecessors did assume the title of head of the Church.

3. But that St. *Gregory* did not at that time arrogate to himself the Title either of universal Bishop, head of the Catholick Church, or any superiority over Temporal Princes, is as clear as if it were written with a sun-beam. For in the contest between St. *Gregory*, and *John Jejunator* Bishop of *Constantinople* about superiority, universal Bishop and head of the Church,

Church. *Gregory* says in his Epistle to *Mauritius*, *Nullus Romanorum Pontificum hoc singularitatis nomen assumpsit; nullus Prædecessorum meorum hoc tam profano vocabulo uti consensit:* None of all the Bishops of *Rome* ever took upon him this name of singularity (*viz.* of Universal Bishop) none of my Predecessors would ever use this prophane stile. *Et universa Ecclesia corruit, quando is qui appellatur universalis cadit;* The whole Church falleth, when he which is called Universal Bishop, falleth. *Et nos hunc honorem oblatum nolumus recipere;* We would not accept of this honor offered unto us. *Epist.80.* And in his Epistle to *John* claiming to himself this title, he says, *Tu quid Christo universalis ecclesiæ capiti, in extremi judicii dicturus es examine, qui cuncta ejus membra tibimet conaris Universalis appellatione supponere?* What answer wilt thou make to Christ the Head of the universal Church, at the trial of the last Judgment, which thus by the name of Universal Bishop seekest to make all his members subject unto thee? And unto *Anastasius* Bishop of *Antioch* he writes, *Ut de honoris vestri injuria taceam, si unus episcopus vocatur universalis, universa ecclesia corruit; si unus, universus cadit:* *lib.6.ep.38.* Not to speak of the injury done to your honor, if one Bishop be called universal, then if that one universal Bishop goes down, the whole Church falleth. And afterward, *Vos eandem causam nullam dicere non debetis, quia si hanc æquanimiter portamus, universæ ecclesiæ fidem corrumpimus:* Ye ought not to say, it is a business of no importance; for if we patiently abide these things, we destroy the faith of the whole Church. And comparing the pride of this Name with the pride of Antichrist, he says, *Nunquid non! cum se Antichristus veniens Deum dixerit, frivolum valde erit? sed tamen nimis perniciosum. Si quantitatem vocis attendimus, duæ sunt syllabæ; si pondus iniquitatis, universa pernicies.* And *lib.6.ep.194.* *lib.4.ep.33.* he says, *In isto sceleste vocabulo consentire, nihil aliud est quam fidem perdere:* To consent to this wicked Name, is nothing else but to lose the Faith. This and much more you may read in *lib.4. ep.80. & ep.99.* and in S. *Gregory's epist.* to *Eulogius* Patriarch of *Alexandria*. Howbeit *Boniface* the Third, within less then three years after the death of S. *Gregory*, did assume the title of Universal Bishop and Head of the Church, but rather by the donation of *Phocas* (who had no more right to give it, then the Parliament had to give *Henry* the Eighth the Head of the Church of *England*, nor had *Phocas* any colour of title to the Empire) and have continued it ever since.

Neither S. *Gregory* nor his predecessors did claim superiority over Temporal Princes.

4. S. *Gregory* in his 76. Epistle to the Emperor *Maurice*, says, *Nunquid ego in hac re, piissime Domine, propriam causam defendo?* Do I herein defend mine own cause, O gracious Lord? And, *Dominus meus fuisti; quando adhuc Dominus omnium non eras: ecce per me servum ultimum suum; & vestrum, respondebit Christus:* You were then my Lord, when you were not Lord of all (*viz.* the Empire) behold, Christ himself shall answer by me who am his, and your meanest servant. And when the Emperor *Maurice* had made a law, That no Soldier should turn Monk, until his warfare were ended; *Greg. ad Mau. Aug. lib 3. ep.61.* *Gregory* disliked the law, and gave the Emperor this sense of it: *Ego quidem missioni subjectus eandem legem per diversas terrarum partes transmitto, & quia lex ipsa omnipotenti Deo minime concordat, ecce per suggestionis meæ paginam dominis nunciavi; utrobique ergo quæ debui exolvi, qui & Imperatori obedientiam præbui, & pro Deo quid sensi, minime tacui:* *lib.2. ep.61.* I being subject to your command, have transmitted your Law to be published through divers parts of the world; And because the Law it self is not pleasing to Almighty God,

God, I have represented my opinion thereof to my Lords; whereforeI have performed my duty on both sides, in yielding obedience to the Emperor, and not concealing what I thought for God. And *Boniface* the First sent an humble supplication to *Honorius*, desiring him by his authority to provide some remedy against the ambitious contention of the Clergy concerning the Bishoprick of *Rome*. The Emperor *Honorius* at his request established a law, That none should be made Bishop of *Rome* through ambition, charging all Ecclesiastical Ministers to cease from ambition; appointing moreover, that if two were elected, neither of them should be taken, but the election to proceed further to another to be chosen by a full consent of voices, as it is expressed *dist.79.cap. Si duo*. If then S. *Gregory* himself were so zealous an opposer of Universal Bishop and Head of the Church, and to that purpose introduced that sentence of *Servus servorum Dei*, to deter all subsequent Bishops of *Rome* from such arrogance: And if S. *Gregory* did acknowledge himself so humble a Subject to *Maurice*; and that *Boniface* the First did petition *Honorius* by his authority to provide against the irregularities in the very election of the Bishop of *Rome*, (there was no such thing in these days as Cardinals, and the Election of the Pope in the Conclave) then sure in the days of S. *Gregory* and before, neither did the Popes assume this title of Head of the Church, nor a power of disposing and transferring Kingdoms at their pleasure. But, *affirmanti incumbit probatio*; and let any man that affirms either, prove either.

Dist.92. cap. Eccle. cap. Victor.

5. That above one half of what is now called *Britain*, did retain the Christian faith, notwithstanding the persecution of the *Saxons*, is sufficiently evident, if we consider *Scotland* and *Wales*, which always retained Christianity since it was first planted. Nor were the very *Saxons* themselves utterly destitute of Christianity: For, *Berta* the wife of *Ethelbert* King of *Kent*, and daughter to the French King, was tolerated to observe the rites of Christian religion with Bishop *Luidhard*; and this was before that S. *Gregory* was excited, or inspired to undertake to preach to the English *Saxons*. It is true, that *Ethelbert* after his own conversion did endeavor to have planted the Christian faith both in the Kingdoms of *Northumberland* and the *East-Angles*, with fair hopes of good success for a season; but it took not effect; for within a short time both Kings and Kingdoms forsook their Religion, and apostated from Christ. The Kingdoms of the *West-Saxons* and of the *South-Saxons*, under *Kingils* their King (who did unite the Heptarchy into a Monarchy) were converted by the preaching of *Berinus* an *Italian*, by the perswasions of *Oswald* King of *Northumberland*. *Oswald* King of *Northumberland* was baptized in *Scotland*, and Religion luckily planted in that Kingdom by *Aidan* a Scotish Bishop. *Penda* King of *Mercia* was converted, and Christened by *Finanus* Successor of *Aidan*, by means of a Marriage with a Christian Princess of the Royal family of *Northumberland*. *Sigibert* King of the *East-Angles*, in whose days, and by whose means Religion took root among the *East-Saxons*, was converted and Christened in *France*.

Though S. *Gregory* were the first, yet was he not the onely Converter of the English Saxons.

Seld. Ana. Anglo-Brit. lib.2.cap.2. pag.62.

Speed in the Kings of the West-Saxons, *an.*611. *Beda lib.3. cap.4,9. Idem lib.3. cap* 21. *Speed* in the Kings of the East Angles, *an.*636.

6. No sooner was the name of Christ preached, but the English presently with such fervent devotion and zeale consecrated themselves unto Christ, that they took incredible pains in propagating Christianity, in celebrating Divine service, performing all functions and duties of piety, building Churches, and endowing them with rich livings, so that there was not another

The zeal of our Ancestors upon their conversion.

another Region in Christendom that could make reckoning of more Monasteries richly endowed; yea, and divers Kings there were, that preferred a religious and Monastical life, before their Crown and Kingdom. So that many holy men also this Land brought forth, which for their firm profession of Christian Religion, constant perseverance therein, and sincere piety, were canonized Saints, that it gave place to no Christian Province in this behalf. And like as *Britain* was called by *Porphyry*, a plenteous province of Tyrants; so *England* may be truly named, a most fruitful Island of Saints. *Camb. Brit. tit. Angl. Saxo.*

The Popes universal power was not received under the English Saxon Kings before the Conquest.

7. The Bishop of *Derry* in his book of the Just vindication of the Church of *England*, *pag.* 57. does affirm, that not any of the petite *Saxon* Kings or their Subjects, though some of them indebted to S. *Gregory* for their Conversion, and all of them much weakened by their sevenfold division, (for at first there was of seven Kings but only one who was a Christian, namely the King of *Kent*; neither was it any of his progeny who afterward did unite the Heptarchy into a Monarchy) much less that any of the succeeding Kings of *England*, or of *Great Britain*, did ever make any solemn, formal, or obliging acknowledgment of their submission to the Church of *Rome*. But on the contrary, when *Austin* first arrived in *England*, he stayed in the Island of *Thanet* until he knew the Kings pleasure, and offered not to preach in *Kent*, until he had the Kings licence to preach throughout his Dominions, &c. Neither was there any Appellant, from the Conversion of the English, (he says) to *Rome*, until *Wilfrid* Archbishop of *York*, who notwithstanding that he gained Sentence upon Sentence at *Rome* in his favor, and notwithstanding that the Pope did send expres Nuntio's into *England* on purpose to see the Sentence executed, yet could he not obtain his restitution, or benefit of his Sentence, for six years during the reigns of *Egbert*, and *Alfred* his son: yea, *Alfred* told the Popes Nuntio's expressly, That he honored them as his Parents for their grave lives and honorable aspects, but he could not give any assent to their Legation; because it was against reason, that a person twice condemned by the whole Council of the English, should be restored upon the Popes Letter. And after he says, That after *Alfred* and *Theodore* were both dead, (*Theodore* was the Archbishop of *York*, that opposed *Wilfrids* Donation from the Pope, and continued it so long as he lived) we find the Sentence of the Pope, and *Wilfrids* Restitution still opposed by the surviving Bishops in *Alfreds* Sons reign, &c. Neither were there any Appeals to *Rome* from that time until after the Conquest, in the reign of *Henry* the First, by *Anselm* Archbishop of *Canterbury*.

Spelm. concil. an. 705.

pag. 62.

All Bishopricks were of the Kings foundation originally, and donative.

When they became eligible, and by what power.

8. See *Comment. Lit. sect.* 648. *pag.* 344. where it appears by our books and divers Acts of Parliament, that at first all the Bishopricks in *England* were of the Kings foundation, and Donative, *per traditionem baculi* (*id est*) the Crosier, which was the Pastoral staff, *& annuli*, the ring whereby he was married to the Church. King *Henry* the First being requested by the Bishop of *Rome* to make them elective, refused it. But King *John* by his Charter bearing date *quinto Junii*, *anno decimo septimo*, granted that the Bishopricks should be eligible. So that all Bishopricks were not only at first of the Kings foundation, and Donative, but afterwards became eligible from no other cause but the Kings Charter.

That

9. That the ſacred character of Prieſthood does not free men from the ſubjection due to the Laws of their Prince and Country, is not only evident by many examples in Sacred Writ, and by almoſt infinite precepts and examples of Goſpel, and holy Martyrs in primitive times, but alſo by a concurrent conſent of all Hiſtories where Chriſtianity hath been planted; And that theſe powers have been juſtly exerciſed by the Kings of *England* before the Conqueſt, among the many Laws of *Ina*, *Withred*, *Alfred*, *Edward*, *Athelſtan*, *Edmund*, *Edgar*, *Athelred*, *Canutus*, and *Edward*, take theſe of *Canutus*.

The Kings of *England* before the Conqueſt did exerciſe their Regal power over all perſons in all caſes.

Si quis ſacra tenens pejeraſſe convictus fuerit, ei manus præciditor, ni dimidiatam ſui capitis æſtimationem domino, atque epiſcopo dependerit: neque vero deinceps qui juret dignus putandus eſt, niſi quidem Deo cumulatè ſatisfecerit, atque ab ejuſmodi in poſterum nefario ſcelere abſtinendi fidejuſſores admoverit. If any in Holy orders be convict of Perjury, let him be branded on the hand, unleſs he ſhall pay to the King and Biſhop half the price of his head: Neither ſhall he afterward be eſteemed worthy to take an Oath, unleſs he ſhall have abundantly ſatisfied God, and ſhall have given Sureties that afterward he ſhall abſtain from ſuch wickedneſs.

Lambert Saxon laws, *lex* 33. *f.* 113.

Si quis eorum qui aræ deſervierint, alicui mortem obtulerit, omni cum divini, tum humani juris patrocinio excludatur: niſi quidem cum exilio cumulatè id ſceleris compenſarit, atque cæſi etiam cognatis ſatisfecerit, aut ſaltem (una cum hominibus qui jurent idoneis) omnem criminis ſuſpicionem diluerit. Hanc vero quæ Deo & hominibus debetur compenſationem, intra ter denos (idque cum fortunarum ſuarum omnium diſcrimine) dies aggreditor. If any one who ſerves at the Altar, ſhall kill any man, let him be excluded from the protection of Divine and Humane laws; unleſs with his baniſhment he may abundantly ſatisfie that wickedneſs, and ſhall alſo give ſatisfaction to the kindred of him who is killed, or at leaſt (together with ſufficient men who ſhall give their oaths) ſhall waſh away all ſuſpition of the crime. And let him go in hand to make this compenſation which is due to God and men, within thirty days, (and that upon the forfeiture of all his fortunes.)

lex 36. 114.

Law-gager.

Si eorum qui aræ deſervierint aliquis hominem occiderit, aut inſigne aliquod perpetrarit flagitium, gradu & honore diſpoliatus, proinde atque ei Papa circumſcripſerit habitandi locum, exulato, ac cumulatè compenſato. Sin is crimen fuerit inficiatus, excuſatio tripla eſto. Atque in hanc quæ Deo & hominibus debetur compenſationem, intra ter denos aggrediatur dies, ab omni legis commoditate deſtitutus habetor. If any one who ſerves at the Altar, ſhall kill a man, or commit any foul offence, deſpoiled of his honor, let him be baniſhed the place of his habitation, and make abundant ſatisfaction, yea though the Pope make it void. But if he deny the crime, let his excuſe be threefold; and if within thirty days he does not endeavor to give this ſatisfaction which is due to God and man, let him be outlawed.

lex 38. *ibid.*

Si quis ſacris inauguratus, rei capitalis obnoxius extiterit, comprehenditor, atque ut tandem epiſcopo criminis admiſſi pœnas dependat, aſſervator. If any one in Holy orders be guilty of any capital crime, let him be apprehended and ſafely kept, until he be puniſhed by the Biſhop for the crime committed.

lex 40. 115.

Si quis ſacrum ordinem, atque vivendi formulam commutarit, pro ipſa ordinis dignitate, ſive capitis æſtimatione, mulctâ, legis violatæ pœna, ſive rebus ſuis omnibus compenſato. If any one ſhall change his holy order and form of

lex 46. 116.

living, for the dignity of the order or price of the head, let him be fined for puniſhment of the violation of the Law, or forfeit all he hath.

But how far this good Prince was from having any ſpight to Holy Orders, or men ſeparated to the Worſhip of God and Service at the Holy Altar; he does enact, *Signis ſacris initiatus, incolâve in iis quæ ad fortunas vitamve ejus ſpectarint decipiatur, tum ei rex (ni is aliunde habuerit) loco Patroni, & cognatorum eſto. Fraudator vero Regi (prout ipſa feret facti ratio) ſatisfacito, aut graves ſceleris admiſſi pœnas rex ipſe repetito: Chriſtiana ſiquidem fide imbuti regis eſt, Deo illatas graviter (pro facti ratione) ulciſci injurias.* If any one entred into Holy Orders, or one living with him be impoſed upon, or cheated in thoſe things which belong to his eſtate or life, then let the King himſelf (unleſs he can procure it otherwiſe) be to him in place of Patron and Kindred; but the Cheator ſhall make the King ſatisfaction (according to the valure of the fact) or the King himſelf ſhall take great puniſhment of the wickedneſs committed; for it is the part of a King endued with Chriſtian religion, ſeverely to puniſh injuries (according to the quality of the deed) offered to God.

Law 37. *fol.*114.

10. For the proving of this, Sir *Edward Coke* in the Proeme to the ſixth Part of his Reports, cites an Act of Parliament made 10 *H.*2. *an.*1164. where it was enacted: "As concerning Appellations, if any ſhall ariſe from "the Archdeacon, they muſt proceed to the Biſhop, from the Biſhop to "the Archbiſhop; and if the Archbiſhop do fail in doing Juſtice, it muſt "laſtly come to the King, that by his precept the controverſie may be "ended in the Archbiſhops Court, ſo that there ought not to be any pro"ceeding further without the aſſent of the King. And that this among many other might not taſte of innovation, the Record ſaith, This recognition or record was made of a certain part of the cuſtoms and liberties of the Predeceſſors of the King, to wit, of *Henry* his Grandfather, and of other Kings, which ought to be obſerved in the Kingdom, and held of all for the diſſentions and diſcords often ariſing between the Clergy, and our Soveraign Lord the Kings Juſticers, and the Peers of the Realm: And all the Archbiſhops, Biſhops, Abbots, Priors, Clergy, with the Earls, Barons, and all the Nobles &c. have ſworne, and aſſuredly promiſed in the word of mouth, in one conſent, to keep and obſerve the ſaid recognition toward the King and his heirs in good ſooth, without evil meaning for ever.

The antient Common-law did not admit of Appeals to *Rome* in caſes Spiritual.

11. The Revenue of *Danegelt* was firſt enacted becauſe of Pyrates: For, infeſting the Country, they did perſiſt as much as they could to the devaſtation of it; And to repreſs their inſolence, the yearly return of Danegelt was enacted, *viz.* Twelve pence for every Hide of all the Country, (Mr. *Selden* in *lib.*2. *cap.*4. *Analecton Anglobritannicon*, *fol.*77. makes a Hide of land to be as much as could be tilled by one plough in a year. Mr. *Lambert* in the Laws of King *Edward*, *fol.*128. makes a Hide to be one hundred acres of land) to maintain them who ſhould reſiſt the irruption of the Pyrates, when they met them. But from the *Danegelt* every Church ſhould be free and quiet, and all land which was in the dominion of the Church, whereſoever it lay, paying nothing at all in ſuch redemption; for men did more confide in the prayers of the Church, then in the defence of arms. But if *Lex unit non ſupervacaneum*, then is it clear that the Church-lands were liable to be taxed by the King; for it had been a ſupervacaneous thing to have excepted the lands of the Church in this Law, if the lands of the Church,

The Kings before the Conqueſt, by their own authority did impoſe Taxes upon Ghurch-lands.

Church had not been liable to have been taxed at all. And to manifeſt more clearly, that the exemption of Church-land from Taxes, was a meer conceſſion of our Kings; take the Stat. of *Ethelulph* the ſucceſſor of *Egbert*, written with his own hand. *Our Lord reigning for ever! Whilſt that we ſee perillous times in our days, the fire of war, the taking away of our goods, together with the cruel depredations of our deſtroying enemies and barbarous Pagan nations do lie upon us, the multiplied tribulations do afflict us even to utter deſtruction: Wherefore I* Ethelulph *King of the* Weſt-Saxons, *with the councel of the Biſhops and my Princes giving wholſom councel, and the only remedy, have conſented, I have determined that every portion given to the holy Church, whether of either Sex ſerving God, or to miſerable Lay-men always the tenth Manſion where it is leaſt; or the tenth part of all Goods, be made for ever free, that it be ſafe and defended from all ſecular ſervices, yea from the Kings greater or leſſer tributes, or the taxations which we call* Winterden; *and that it be free of all things for the forgiveneſs of our ſouls and ſins, to ſerve God alone, without Expedition, building of Bridge, and fortifying of Caſtle.* *Analect. Angl. lib. 2. cap. 4. pag. 77.*

12. If King *Ethelbert* were obliged to S. *Gregory* for the Converſion of the *Engliſh Saxons* to the Faith, Prince *Edgar Athelin* was ſmally beholding to Pope *Alexander* 2. For, *Edgar* being Grandſon to *Edmund Ironſide*, and the undoubted Heir to the Engliſh Monarchy after the death of *Edward* the Confeſſor; *Alexander* not only allows the Conquerors pretenſions to the Crown of *England*, but interdicts all thoſe who ſhould oppoſe him. So that though *Harold* were an Uſurper, yet was his Holineſs his Interdiction as much againſt the undoubted Title of *Edgar*, as againſt *Harold*: Nor were all titles of rights and intereſts of the Engliſh Monarchy ever perfect and compleat from that time, until they were all united and perfected in King *James*. At what time the Pope firſt uſurped juriſdiction over the Crown of *England*. *Speed fol.* 405. *par.* 27. See the effects of the Popes curſe, *Speed fol.* 415 *par.* 2.

13. How far the *Britanick* Churches were from any dependence upon the Church of *Rome*, we have already ſhewed: And ſo free were the Churhes of *England* under the *Saxon* Kings before the Conqueſt, that before the Appeal of *Anſelm* Archbiſhop of *Canterbury* to Pope *Paſchal* 2. ſcarce any Appeal was ever made to *Rome*, but that of *Wilfreds*, which was overruled by the King and Church. So that for near a thouſand years after the Converſion of the *Britains* and *Saxons* to the Faith, although by means of S. *Eleutherius* and *Gregory* the Great; we do not find any thing which may prove the ſuperiority of the *Roman* Church over either the *Britanick* or *Engliſh*. And how ſtrange a thing the inveſtiture of the Engliſh Biſhops by the Pope, was to the King and Kingdom of *England*, appears by the Letter of *Paſchal* to *Anſelm*, in anſwer to *Anſelm's*; *Significaſti Reges & Regni Majores admiratione promotos, &c.* You have ſignified to me, that Kings and Nobles were moved with admiration, that the Pall was offered to you by our Miniſters, upon condition that you ſhould take an Oath which they brought you written from us. And the King not only oppoſed this Popes Letter, but pleaded the Fundamental Laws and Cuſtoms of the Land: *Conſuetudo regni mei eſt à patre meo inſtituta, ut nullius præter licentiam Regis appelletur Papa; qui conſuetudines regni mei tollit, poteſtatem quoque & coronam Regis violat:* It is a Cuſtom of my Kingdom inſtituted by my Father, that no man may appeal to the Pope without the Kings licence; He that takes away the Cuſtoms of my Kingdom, doth violate the Power and Crown of the King. And theſe Laws were no other then the Laws of the Confeſſor, At what time the firſt conteſt hapned between the King & Pope about the inveſtiture of Biſhops. *De Elect. Pet. cap.* 4.

viz. the old *Saxon* Laws; but alſo in the execution of theſe things, the Biſhops of *England* adhered to the King and Laws, and denied their ſuffrage to their Primate, as you may read in the Biſhop of *Derry's* Vindication of the Church of *England*, *p.*63,64.

Legations as rare as Appeals before the Conqueſt.

14. After, *pag.* 65. he inſtances out of Sir *Hen. Spelman*, *conc. an.* 78. that *Gregory* Biſhop of *Oſtium* the Popes Legate, did confeſs that he was the firſt Roman Prieſt that was ſent into theſe parts of *Britain*, from the time of *Auſtin*; and that thoſe Legates were no other then ordinary Meſſengers or Ambaſſadors ſent from one Neighbor to another: Such a thing as *Legantine Court*, or a *Nuntio's Court*, was not known in the *Britiſh* world, and long after.

The Pope and all the Engliſh Hierarchy conſpire with *Stephen* againſt *Maud* the undoubted Heir of *Henry* the firſt.

15. See *Speed* in the life of *Stephen*, *para.* 4. where *Stephen* having entred his Government in the year of our Lord 1135. the 2. of *December*, and was crowned at *Weſtminſter* the 26. of the ſame moneth, being S. *Stephens* day, by *William Corbell* the Archbiſhop of *Canterbury*; who with the reſt of the Biſhops doing him homage, and knowing now he would yield to any conditions, (for performance whereof his brother the Biſhop of *Wincheſter* did there engage himſelf for a Pledge) they all took their Oath of Allegiance conditionally, (traiterouſly I might ſay) to obey him as their King, ſo long as he ſhould preſerve their Liberties, and the vigor of Diſcipline. And that the Lay-Barons made uſe alſo of this policy, appeareth by *Robert* Earl of *Glouceſter*, who ſware to be true Liegeman to the King, as long as the King would preſerve to him his dignity, and keep all covenants, &c. And having buried the body of *Henry* the Firſt, he went to *Oxford*, where he acknowledged he attained the Crown by Election only, and that the Pope *Innocentius* confirmed the ſame.

The ſecond conteſt between the King and Pope, and from what cauſe.

16. The next conteſt, which after *Anſelm* happened between the King and the Pope, was cauſed by *Tho. Becket* Archbiſhop of *Canterbury*: For *Stephen* the Uſurper having made a Law, whereby the Temporal Judges might not meddle with Eccleſiaſtical perſons; *Henry* the Second, upon many diſorders committed by the Clergy, did repeal this Law, and reſtored the antient Laws of this Realm (commonly called *Avitæ leges*) whereby the perſons of Prieſts were not exempted from being judged by the Temporal Judges; And though the Archbiſhop ſware to obſerve the Laws reſtored by the King, yet was he abſolved by Pope *Alexander* 3. Nor could the Archbiſhop ever after be brought to conform to the Laws called *Avitæ leges*; which was the cauſe of his aſſaſſination, and of great trouble to the King and Realm. And whether this man did deſerve to be canonized for his ſtubborn diſobedience to the Laws of his Country, which no ways concerned faith, but only civil and temporal obedience, and thoſe not new neither, but a reſtitution of the antient Laws; let any man judge.

The quarrel between King *John* and the Pope.

17. The firſt occaſion of the quarrel between King *John* and *Innocent* the Third, was: *Hubert* the Archbiſhop of *Canterbury* being dead, the Monks of S. *Auguſtine* in that City, elected without any licence of the King, one *Raynold*, and took an oath of him to go to *Rome* and take his inveſtiture from the Pope. The King incenſed hereat, cauſed *John Gray* to be choſen, and deſired the Pope to ratifie this laſt choice: The Pope notwithſtanding confirms the former: The King hereupon grows angry, and divers of the Monks, againſt their own act, refuſe to accept him. The Pope (although *Raiold* were choſen by the Monks, and confirmed by the Pope) adviſeth

adviſeth the Monks to chooſe *Stephen Langton*; the Monks do ſo; the King is highly exaſperated, and forbids all Appeals to *Rome*, and did alleadge that he had Biſhops, Prelates, Nobles and Magiſtrates of his own, who could (according to the Laws of the Land) decide and determine all Controverſies which ſhould ariſe in Church or Commonweal. The Pope inſiſted upon the election of the Cardinal, (*Stephen Langton* was Cardinal of *Chirſogone*) and required the King not only to give him the quiet poſſeſſion of the See, but alſo to recall all ſuch Monks as were exiled, and to reſtore them to their Goods which were ſeiſed on by the King for the laſt choice, and for default to interdict him and the whole Realm. The King is ſo far from obeying, that he ſeiſed upon the lands and goods of thoſe Biſhops to whom the Pope had (forſooth) given the power of Interdiction. The Pope conſtant in his reſolutions, by *Pandulphus* and *Durant* interdicts the King and Kingdom, and gives it the French King. King *John* driven into a great ſtrait, gives his Crown and Kingdom to the Pope; he good man had before given it to the French King *Philip* the Second firnamed *Auguſtus*; and his ſon *Lewis* had gotten ſuch footing in *England*, that he would not be gotten out: The Pope interdicts both father and ſon, but his curſes took not ſuch place that they would give over what they had gotten by the firſt grant; nor did theſe troubles end until the Engliſh Nation uniting themſelves under *Henry* 3. did by plain force drive *Lewis* out of *England*; to ſuch an inſufferable height was the Papacy grown in thoſe days.

18. Although the ſtubborn Barons made *Henry* 3. ſwear to obſerve the Ordinances made in the Mad Parliament at *Oxford*; and the Archbiſhop of *Canterbury* and nine other Biſhops did denounce a Curſe againſt all thoſe, who either by direction, arms or otherwiſe ſhould withſtand the Ordinance of the Twelve Peers, which gave the exerciſe of all Regality to them; yet did the Pope abſolve him from it very eaſily. *Addit. Matth. Paris* 990. The Biſhops in *H* 3. his reign conſpire againſt him.

19. How zealous the moſt noble Prince *Edward* the Firſt was in the cauſe of Chriſtianity, and how obſervant of the Papal power, is evident by his victorious Voyage into Holy land: But he afterwards became hated by the Churchmen, both in reſpect of the Statute of *Mortmain* made in the fourth year of his reign, and alſo becauſe that (by the advice of *William Marchyan* his chiefeſt Treaſurer) he ſeiſed into his hands the Plate, Jewels, and Treaſure of the Churches and Religious Houſes within the Realm, and compelled the Clergy to give him the one half of one years value of all their Eccleſiaſtical promotions and dignities. But ſuch was the felicity of this Prince, that neither Pope nor Clergy durſt openly oppugne him; but in the 27. year of his reign, at the requeſt of *Boniface* 8. ſays *Martin*, he ſet *John Baliol* (adjudged by *Edward* before King of *Scotland*) at liberty: And having conquered *Scotland* in the 33. year of his reign, *Robert Bruce* procured an Inſtrument from the Pope, that the Kingdom of *Scotland* was holden of the Church of *Rome*, and therefore required the King to deſiſt from the proſecution of his wars there: But how little King *Edward* regarded this Inſtrument, and what anſwer he returned to the Pope, you may read in our Engliſh Chronicles; nor do I find that ever more proſecution was made by the Pope in this Kings life-time. Conteſts between the Pope and *Ed.* 1.

20. From this time until *Henry* the Eight, the Kings of *England* and the In the reign of *Hen.* 4.

the Popes kept ſo good correſpondence, that they never went ſo far as Excommunication or Interdiction on the Popes part; and how far the Kings did reſtrain the Popes juriſdiction in their ſeveral reigns, after the Conqueſt, ſhall be ſhewed in *Chap.* 3. Yet I cannot paſs over one thing of the whole Hierarchy of the Church of *England* (except only the Biſhop of *Carliſle*) who all factiouſly and traiterouſly conſpired, or adhered to *Henry* the Fourth his unjuſt Uſurpation, and Depoſition of their Soveraign *Richard* the Second.

Chap. II.

Of Eccleſiaſtical Laws made by the Saxon *and* Daniſh *Kings before the Conqueſt.*

Inas began to reign in the year of Chriſt 712. died 727.

Inas by Gods gift King of the *Weſt-Saxons*, by the advice and inſtruction of *Cenredes* my Father, and *Heddes* my Biſhop, and *Eorkenwoldes* my Biſhop, and with all my * Ealdermen, and them of beſt birth of the Wiſeſt of my people, and eke in a great Aſſembly of Gods Servants, did religiouſly ſtudy as well for the health of my ſoul, as for the common profit of our Kingdom, that right Laws of Marriage, and juſt Judgment be firmly eſtabliſhed through every folk; and that hereafter it ſhall not be lawful for any Ealderman, or any under our rule, to make void theſe our Dooms or Judgments.

*Counſellors, Earls.

Cap. 1. *Of the Rule of Gods Servants.*

Firſt we command that Gods Servants have a right rule of living: After that we command all folk to obſerve theſe Laws and Dooms, or Judgments.

Cap. 2. *Of Children.*

A Child ſhall be baptized within thirty days after it be born; if that be not done, let thirty ſhillings be forfeited: If that it die before it be baptized, he ſhall forfeit all he hath.

Cap. 3. *Of working upon Sunday.*

If a Slave work on Sunday by his Maſters command, let him be free and the Maſter ſhall pay thirty ſhillings: But if the Servant did his work without command of his Maſter, beat his hide, or make him to fear a hide-beating. If a Free ſervant do any work without his Maſters bidding, let him forfeit his freedom, or ſixty ſhillings; and a Prieſt double ſo much.

Cap. 4. *Of Firſt-fruits.*

Firſt-fruits ſhall be paid upon the Maſs of S. *Martin*; he who ſhall not then pay them, ſhall forfeit forty ſhillings, and pay twelvefold the value of the fruits.

Of

Of Church-Priviledge, or Sanctuary. Cap. 5.

If any man guilty of death, flee to the Church, let his life be ſpared, and let right be done to him: And if any man deſerving ſtripes, implores help of the Church, let him be remitted his ſtripes.

Of Fighting. Cap. 6.

If a man ſtrike in the Kings houſe, he ſhall forfeit all he hath; and let it depend upon the Kings judgment, whether he ſhall loſe his life. If one ſtrike in a * Minſter, he ſhall pay one hundred and twenty ſhillings, &c. *Cathedral Church.

Of First-fruits. Cap. 62.

Every man ſhall pay Firſt-fruits for the Roof and Hearth, where he ſhall be upon the day of the birth of our Saviour.

Of the killing of Godfather or Godſon. Cap. 75.

If any one ſhall ſlay his Godſon, or his Godfather, he ſhall compenſate ſo much to his next of kin, as the compenſation due to his Lord had been: And this payment to the value of him which is killed, ſhall be increaſed or leſſened, accordingly as the payment to the Lord for the Servant killed ſhould have been performed. If it be the Kings Godſon which is killed, he ſhall ſatisfie the King and his kindred; but if the next of kin kills him, he ſhall pay to the Godfather ſo much, as ſhould have been paid to the Lord for the ſlaughter of his Servant. If he be a Biſhops ſon, he ſhall pay half ſo much.

Eccleſiaſtical Laws made by King Alfred *or* Alured, *who began to reign in the Year* 871.

The Preface.

GOD did ſpeak theſe words to *Moſes*, and thus ſaid: I am the Lord thy God, I led thee out of Egypt land, and of the houſe of bondage; Thou ſhalt not chooſe other Gods before me.

Do not take my Name in idleneſs; for I will not hold him innocent, who on idleneſs taketh my Name. Remember thou keep holy the Seventh day; Do thy work on ſix days, and on the Seventh reſt, thou and thy ſon and thy daughter, thy ſervant and handmaid, and thy work-cattel, and the ſtranger that is within thy door: For on ſix days Chriſt made heaven and earth, ſea and all things thereon were created by him, and reſted on the Seventh day, and therefore the Lord hallowed it. Honor thy Father and thy Mother, whom the Lord gave thee, that thou maiſt live long on earth. Thou ſhalt not kill. Thou ſhalt not ſteal. Thou ſhalt not commit adultery. Nor report falſe witneſs of thy neighbor; nor covet thou thy neighbors inheritance without right: Nor work golden gods, or ſilver. Thou ſhalt conſtitute theſe Judgments.

If a man buy a Chriſtian man, he ſhall ſerve ſix years, the ſeventh let him be free without coſt: With the ſame veſtment he came in, with the ſame let him go out; if he have a wife, let her go out with him; if his Lord gave him his wife, ſhe and her * bearns are the Lords. But if the ſervant * children.

ſhall

ſhall ſay, I will not part from my Lord, nor from my wife, nor from my children, nor from my work; then let his Lord bring him to the door of the Temple, and there let him bore his ear with an eal, for a ſign that ever after he is his ſervant. If any man ſell his daughter for an handmaid, he ſhall not uſe her as an handmaid, he ſhall uſe her courteouſly, neither ſhall he ſell her to other folk; and if ſhe be negligent, let him be pacified, let him ſet her free to ſtranger folk; if he ally her to his ſon in marriage, let him give a garment, the reward of her modeſty, and endow her; but if he will do none of theſe, let him ſet her free without price.

If a man ſlea another willingly, he ſhall be ſlain himſelf; but if a man ſlea another not lurking or lying in wait, or unwillingly, or of neceſſity, ſo as he were given into his hand by God, let him flee to Sanctuary and ſave his life, and forfeit nothing. If a man of ambition and guile ſlea his neighbor, let him be taken from mine altar and be put to death. If a man ſlea his father or mother, he ſhall be put to death. If a man foreſtall a Freeman, and he ſell him to another man, he ſhall be put to death. If a man revile his father or mother, he ſhall be put to death. If a man ſlea another with a ſtone, or with his fiſt, and yet he can go with a ſtaff; get him a Phyſician, and let him do his work while he is impotent. If a man willingly ſlea his ſervant or his handmaid, ſo as he doth not die in a day, but live two or three nights, although he be guilty, let him be free, becauſe they were his goods; but if he die the ſame day, let him be guilty. If a man by contention hurt a wife with child, let him repair the damage that ſhall be adjudged; if ſhe die, he ſhall be put to death. If a man put out anothers eye, let him loſe his eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound with wound, ſkar with ſkar. If a man ſtrike his ſervant or handmaid ſo as he loſes an eye, let him be free therefore; or if he ſtrike out a tooth, let him be free. If an oxe gore any man or woman ſo as he die, let him be ſtoned and eat his fleſh; and let the maſter of the oxe be guiltleſs, if in two or three days he did not know that the oxe gored a man: if he knew it, and yet would keep him, and the oxe afterward kill a man or woman, let the oxe be ſtoned, and the maſter either put to death, or pay that price which ſhall be impoſed upon him for the life, be it ſon or daughter, the law is the ſame; if he be a ſervant or handmaid which is gored to death, let the oxe be ſtoned, and thirty ſhillings be paid to the maſter. If a man dig a pit and ſhall leave it uncovered, he ſhall pay the value of any beaſt that falls into it and dies. If the oxe of one gores the oxe of another ſo as he dies, let the live oxe be ſold, and his price and the fleſh of the dead one be given to the Lord; if after the oxe wound another and he die, let him ſell the oxe, and give the price and the fleſh of the oxe that is killed to the Lord thereof. If the maſter knew the oxe had gored another, and would not take warning nor ſell him, he ſhall give two, and four ſheep for one; if he hath not wherewith to pay, let him be ſold for theft.

Note, *ſlea* is to ſtrike, as well as kill.

If a Thief break a mans houſe in the night, and there be ſlain, he ſhall not be guilty of manſlaughter; but if it be after ſunriſe, he ſhall be guilty of manſlaughter, if ready to be killed, he were not neceſſitated. If a man ſhall put fire into ſtanding corn and burn it, the author ſhall give the value of the damage. If a man truſt another with goods to keep, and he privily ſteal them, let him repay double; but if it be not found that he which was intruſted, uſed nō deceit, let him be excuſed. If the thing intruſted

were

were a living creature, if he can bring witneſs that it was taken away by enemies, or that it is dead, he ſhall not repay; but if he cannot bring witneſs, nor free himſelf from guilt, let him ſwear he is not guilty. If a man corrupt a virgin unbetrothed, and ſlept with her, let him be fined, and take her to wife; but if her father will not ſo beſtow her, let him pay her portion, after the value of virgins portion. Women Fortune-tellers, Charmers and Soothſayers, ſuffer not to live. He that hath had any thing to do with a beaſt, ſhall be put to death. He that offers ſacrifice to any other Gods, ſhall ſuffer death. A ſtranger or inhabitant thou ſhalt not hurt, for thou wert a ſtranger in the land of Egypt. A widow or orphan do not oppreſs nor vex; if you ſhall oppreſs, and they complain, I will hear their prayrs, and ſlea you with my ſword, your wives ſhall be widows, children orphans. If thou lend money to thy acquaintance, be not a gainer from him, nor exact uſury of him. If thou take the garment of one for a pledg, who hath only that for a covering, reſtore it before the ſun ſet; but if he complain to me, I will hear him for my mercy. Do not ſpeak evil of the Lord, nor curſe him who is the Prince of the people. Pay thy Tithes, and thy firſt-born and firſt-fruits give to God. Do not taſte the fleſh torne from beaſts, but caſt it to the dogs. Do not truſt to a deceitful mans word, nor hearken to it as to obey it; nor favor him in judgment, nor eſteem his witneſs but as a tale. Do not follow the ill counſel of the people, nor in controverſie of right incline to the opinion of the multitude; nor do thou hold any thing common with wrong. If thou ſhalt find any fourfooted beaſt of thine adverſary ſtraying out of the way, reclaim him. Judge rightly; do not judge otherwiſe to the poor and adverſary, then to the rich and friend. Do not tell a Lye. Do not ſlea the innocent and juſt. Do not take a gift, for it oftentimes blinds the eyes of the wiſe, and perverts the ſpeech of the prudent. Do no injury to the ſtranger nor inhabitant. Do not take the names of other Gods in ſwearing, nor have them in thy mouth.

Theſe are thoſe Laws which the Almighty God himſelf did give to *Moſes*, and commanded him to keep; and alſo the onely begotten Son of God, when he came into the World, openly taught, That he did not come down to deſtroy the Law, but to fulfil it with gentleneſs and goodneſs; for he delivered the rule of true Piety. After that, they nailed him to the Croſs, before that his Apoſtles (were together, nor were ſcattered for preaching the Goſpel) converted many Nations; and ſent Apoſtles and Interpreters of the Scripture to *Antioch*, *Syria*, and *Cilicia*, to learn Chriſts Law; and what ſhould then befal them, ſhould by a Meſſenger be ſent back to them in writing. This is that Epiſtle which the Apoſtles ſent to all the people of *Antioch*, *Syria*, and *Cilicia*, which were converted from the bondage of the *Gentiles* to Chriſt.

The Apoſtles and Elder Brethren, wiſh health to you. Aſſoon as we heard that certain men, which went from us, had troubled you with words, and commanded ſome things which they had not in command from us, and had made your ſouls ſad, rather then inſtructed you with ſound and wholeſome Doctrine; it ſeemed good to us, being met together, to ſend to you *Barnabas* and *Paul*, who had ventured their life for the Name of Chriſt: With them we ſend *Judas* and *Sylas*, who ſhall ſpeak the ſame words. It ſeemed good to the Holy Ghoſt and us, not to impoſe more neceſſary burden, then theſe things upon you; That ye abſtain from things offer-

ed to Idols, and Blood, and things strangled, and from fornication; and that ye will that which ye would other men should do to you. From this one Commandment it is manifest, That a man should restore every man his right, neither is there need of any other Law-book. This he should remember, who sits a Judge over other men, That he should not give that judgment upon other men, which he would not have given upon himself. After the Gospel of Christ was preached, many Nations, as also the English, by Faith joyned themselves to the Word of God: Some Bishops and other famous men, as well in *England*, as other Regions, held a Council of wise men; and these men, taught by Gods mercy, imposed upon every sinner a pecuniary mulct, and left the power of exacting it to the Magistrates, without any offence to God, having obtained leave; onely to the betrayer and forsaker of our Lord, they did not judge fit that this light punishment should be inflicted, because they deemed such a man not worthy to be spared, as well, because God would have such contemners of him unworthy of all mercy, as also, that Christ, Gods Son, would not have mercy on them that betrayed him to death; and he bid them to worship God before any other. They therefore, in many Synods, constituted punishments for all sins, and commanded them to be written.

These Laws have I *Alfred* the King gathered together, and commanded to be written, a good part whereof our Ancestors have religiously observed; there are also many things worthy to be observed of us with like Religion in this age; yet some there are which seem less profitable to us, by the advice of wise men I have altered, some I have made new: And because it may seem rashness for any one to command to be written more then his own Decrees; as also it would be an uncertain thing how they would be esteemed afterward, of which we make great account: Whatsoever are worthy to be observed in the acts of *Ina* my Kinsman, of *Offa* King of the *Mercians*, or *Ethelbert*, who was the first of *Englishmen* that was baptized, I have collected them all, and the other left: And in taking them, I *Alfred* King of the *West-Saxons* have used the counsel of the most wise men, and it hath pleased them all to judge them worthy to be kept.

Cap. 2. *Of the Priviledge of the Church.*

If any man guilty of any crime, shall flee to a Religious house, if that belong not to the Farm of the King, or some Honorable family, let him there remain three nights, in which, let him heed his salvation (unless in the interim he return into favor:) And if any one shall during that time weaken him with fear of stripes, bonds or wounds, let him be free as the custom of the Nation is, with the price of his head and with fine, and the damage of violation of the liberty of the Church, with One hundred and twenty shillings to boot.

Cap. 3. *Of the Priviledge of Sanctuary.*

We do further grant this peace to every Church consecrated by a Bishop: If an enemy afflict another, and he implores help of the Temple, let him in seven days be taken out by no man; if for hunger he can live so long, and not opened his way by force: If a man does otherwise, let him be held a breaker of the King and Church, and also of a more grievous crime, if he shall have stoln any thing thence. If the Governor have more then ordinary occasion to use that place, provide for him in another house, which has not more

more doors then that which shuts the Church, and let the Governor take care that in the mean time he gets no meat; But if he will give his arms into the power of his adversaries, let them keep him safe thirty days, and then give him into the hands of his kindred. Also the freedom of the Church is, if any guilty man flee to the Church before he be accused, and there confess it in Gods name, he shall be remitted half of his mulct.

Of Sacriledge. *Cap. 6.*

If a man steal any thing in a Church, let him pay the value of the thing stolne, and that punishment belonging to that value, and that hand wherewith he stole be cut off; if he will redeem his hand, and it be granted him, let it be with the price of his head. If a man steal upon a Sunday, Christmas-day, Easter-day, Holy Thursday, or upon a Communion-day, let him pay double, as also in the Fast of *Lent*.

Of them who steal money out of Churches. 8.

If any man shall take money out of a * Minster without the Kings leave, or the Bishops, he shall pay 120 shillings, half to the King, half to the Bishop and the Lord of the Church. * Church.

Of the Fighting of Priests. 21.

If a Priest slea any man, let all he has acquired be confiscate, and the Bishop degrade him, and let him be thrust out of the Church, unless the Lord of the house will forgive him the price of his head.

Of him who binds himself to God, (or enters into Religion.) 28.

If any other accuse a man entred into Religion (or bound to God) that he hath not performed something of those things which he has mentioned, let him give a Fore-oath in four Churches; and the other, if he will justifie himself, let him do it in twelve Churches.

Of Fight. 38.

This Chapter gives a Priviledge for the honor of the Church, in case of Manslaughter, to him who flees thither.

Of Mass-Holidays. 39.

All Freemen have freedom granted them on these Holidays, but not Servants. The twelve days in Christmas, the day on which Christ subdued the Devil, the Anniversary feast of S. *Gregory*, and seven days before Easter and seven days after, the Feast-days of S. *Peter* and S. *Paul*. In Autumn, the whole week which is before the Feast of *Mary*, the Feast-days of all Saints, and the four Wednesdays in Ember-weeks, let servants have all holy liberty given, and freedom, that they may spend all their endeavor upon the benefit of those things, which they have heretofore received in Gods name, or for whatsoever benefit he shall hereafter earn.

The League of King Edovard *and* Guthrun.

Preface.

THese are the institutions of King *Alfred* and King *Guthrun*; and then King *Edoard* and King *Guthrun* made in those very times, when the *Danes* and *English* made league, and bound themselves, that those things which are afterward recited, should be often amplified and increased to the common benefit of the Realm.

Before all things, they propounded one God to be devoutly and holily worshiped, and that there should be no Heathen worship, &c.

Cap. 1. Therefore they first decree, that the peace of the Church be kept within the walls holily and inviolably, and also that tranquillity which is delivered into the Kings hand.

2. Furthermore, if any man shall renounce the Christian faith, so as by words or deeds he advance the Heathen worship, he shall forfeit the price of his head, or the punishment of the Law according to the offence.

3. If a man entred Religion (or bound to God by promise) steal, or fight, or forswear, or commit adultery, he shall forfeit the price of his head, or suffer punishment for transgressing of the Law, according to the nature of the crime; at least he shall satisfie God according to the rules of the Church, and be cast into prison if he cannot find Sureties. If a Priest upon Feasting-days or Fasting-days shall go astray, if it be among *Englishmen*, let him be fined thirty shillings; but if it happen among the *Danes*, let him pay half a mark. If a Mass-priest upon appointed days provide not Oil, or deny Baptism, as the use is; among the *English* let him be fined, and with the *Danes* the breach of the Law is twelve * Oran. If any man of Religion commit any thing worthy of death, let him be taken and held to the Bishops judgment.

* *Quere* the value of an Oran.

Of Incest.

4. Furthermore it seemed good to the wise men, that of men guilty of Incest, the King shall have the higher, and the Bishop the lower, unless he shall abundantly make recompence to God and men, and shall perform what is enjoined them by the Bishop. If two brethren, or two of the same alliance, commit fornication with the same wife, let them be fined the value of their head, or be punished for the transgression of the Law according as is meet, and as the crime deserves.

5. If a man condemned to death, desires ingenuously to confess his sins to a Priest, let it be granted him: And let all men Gods laws so follow, that they obtain Gods mercy, and be acquitted of wise men.

6. If a *Dane* pay not his Tythes, let him undergo the punishment of the breach of the Law; let an *Englishman* be fined. If a *Dane* withhold what is due to *Rome*, let him be punished for the breach of the Law; let an *Englishman* be fined. If any *Dane* pay not to the Candles, let him be punished for breach of the Law; let an *Englishman* be fined. If a *Dane* shall not pay the just Alms of the Plough, let him be punished for breach of the Law; let an *Englishman* be fined. If a *Dane* shall suppress or retain any

fulhæl myrran.

Divine

Divine Laws or Duties, let him be puniſhed for breach of the Law; let an *Engliſhman* be fined. If any man wilfully wound another offering Divine ſervice, let him be guilty of death; but if he ſhall die, let him be outlawed, and all Miniſters of Juſtice apprehend him, hurt, or unwilling: And if it were his fault that he was ſtricken, or did againſt Gods law, or reſiſted the King, if a man ſo flatter himſelf, let him be without recompence, *or as we ſay, he has the means in his own hands.*

Of working on Holidays.

If a *Dane* ſell any thing upon Sunday, let him forfeit the thing and twelve Ora's, an *Engliſhman* thirty ſhillings. If a Freeman do any work upon an Holiday, let him forfeit his freedom, or be fined and puniſhed for breach of the Law; let a Servant be beaten, or be made to fear being beaten. If a *Dane* ſhall make his Servant work upon a Holiday, let him be puniſhed for breach of the Law, and an *Engliſhman* be fined.

Laws Eccleſiaſtical made by King Æthelſtan,

Who began to reign in the year of our Lord 924.

I *Æthelſtan* King, by the prudent counſel of *Wulfhelmes* mine Archbiſhop and other my Biſhops, command all Governors that are in my Government, in the name of God and all his Saints, and for their good will towards them, that before all things they pay juſt Tythes, as well out of our property, as the duties of living creatures and fruits of the earth; and that all Biſhops, Ealdermen and Sheriffs do the ſame thing: And I will that my Biſhops and Sheriffs, who ſit in judgment upon other men, that they obſerve this rule, and that they finiſh all theſe things upon the day we have appointed, *viz.* the Anniverſary of S. *John Baptiſt* beheaded.

Further when we think with our ſelf, what the moſt excellent Father *Jacob* ſaid to God, *I will offer my tythes, and a peace-offering to thee*; and what the Lord ſpake in the Goſpel, *To the all-having man ſhall be given, and he ſhall abound:* We moreover may think on thoſe things, which are ſo terribly written in this very book; *If you will not pay your tythes, giving us only the tenth part, the nine parts ſhall be taken from you.* Alſo we are admoniſhed that Heavenly things are more excellent then Earthly, and eternal things then our frail bodies. Whenſoever therefore ye hear what the Lord commands, and what we ought to follow, thoſe things only I would have you to do, which you can juſtly and lawfully prepare.

Of Church-breaking.

And we command concerning Church-breaking, if he be a man of the threefold * Ordal, let him give ſatisfaction as is rehearſed in the Judgment-book.

Cap. 5. Concerning the *Ordal*, ſee *Verſteg. an. & Seld. annal. Anglo lib. 2. cap. 8.* and *Lamberts* pref. Saxon laws. *Cap. 23.*

Of them willing to undergo the Ordal.

If any man will undergo the Ordal, then let him come three days before the Maſs-prieſt hallow it, and feed himſelf with bread and ſalt, and water and

and worts, before he go to Trial, and let him go to Mass every day and offer his gift; and upon the day he shall undergo the Ordal, let him take the Eucharist, and swear that he is innocent and knows nothing of the wickedness whereof he is accused. If it be of cold Water that the Question made, let him be plunged over head and ears half an ell in the water; but if it be of Iron, let him hold it three days before he put it out of his hand. And the Accuser shall proceed to follow the oath he made before, and both shall fast by the command of God and the Bishop; and let there be on neither side above twelve men; but if the Accused comes with more then twelve men, then unless they will depart, let the Ordals be void.

The trial of the Ordal, was either to be souſed over head and ears in cold water, or to thrust his hand a cubit deep into boiling hot water, or to go barefoor, or hold a burning hot iron in the Triers hand: If they neither shak'd the rope to be pulled out of the water, nor burned, nor scalded their hands or feet, they were acquited.

And upon each Friday, let every one of Gods Ministers in every Church sing the 50. Psalm, for the King, and for all that will as he willeth, and for all other who deserve well of him. If a man accuse another of any crime, let him make him recompence, unless he did it upon * Procession-days; and if he do so afterward, let it be as before it was.

* zonz dazaf.

Ecclesiastical Laws made by King Edmund,

Who began to reign in the Year 940.

Edmund the King, in the Solemn Feast of *Easter*, gathered to *London* a great company as well of Ecclesiasticks, as of the People. There was *Oda* and *Wulstan* Archbishops, and many other Bishops, that they might as well take care for the health of their own souls, as for the souls of them committed to their charge.

Cap. 1. *Of the Man who hath vowed Chastity.*

First, they who are entred into Religion, and who should give Gods people an example of virtue to imitate, according to their Order, be they Men or Women, let them live chaste: But if they shall not do it, then let the Canon punish them, that is, let them forfeit all they have in the world; and if they mend not their manners, not be buried in the Sanctuary.

2. *Of Tythes and Church-scot.*

Every Christian which shall not pay his Tythes, his First-fruits, and his Alms, let him be accursed.

4. *Of him who shall deflowre a Nun, or commit Adultery.*

If a man shall carnally know a Nun, let him be as if he had killed a man, or be denied Burial in the Sanctuary; and let the same Law be to him who commits Adultery.

5. *Of Re-edifying the Church.*

We will that every Bishop at his own costs shall repair the House of God, and also minde the King, that all Gods Houses be well adorned; which thing is very behooful.

6. *Of men Perjured, and worshiping Heathen Gods.*

They who are Perjured, and offer Heathenish sacrifice, shall be for ever shut out from things pertaining to God, unless they soon repent and mend their manners.

Of

Ecclesiastical Laws made by King Eadgar,

Who began to reign in the year of our Lord 959.

THE Laws which *Eadgar* the King, in a great Assembly, ordained to the glory of God, the ornament of himself, and the profit of all his Nation.

First let the Church of God enjoy all its rights and immunities, and let every man pay his Tythes to each Church to which he is subject; whether it be of Plow-land, or Inland; of men of free condition, or lands of Villains. 1.

Of Church-tribute. 2.

If a man of free condition hath a Church upon his freehold, which hath a place of Burial belonging to it, let him bestow one third part of his Tithes upon the Church; but if there be no place of Burial about the Church, let the Lord of the ground give to the Priest of the nine parts, what he will. And let the Church-tribute of every Church be paid out of the lands of all Freemen.

Of Tithes. 3.

And let every one pay tithes of young living creatures, before Pentecost; and the tithes of the fruits of the earth, before the * Equinox; and Church-tribute, at the feast of S. *Martin*. If any one shall not pay, let him incur the punishment expressed in the Doom-book: And if any one shall not pay his tithes as we have set down, then may the Kings Sheriff, and the Bishop, and the Mass-priest of the Church meet, and take the tenth part due to the Church, and return the ninth part back again to him without thanks; as to the other eight parts, let the Lord have one half, the Bishop the other. Let this be, though he be the Kings man, or of free condition.

* Sure it is meant the Autumnal Equinox; for no tithes can be renewed before the Vernal.

Of the Hearth-penny. 4.

And let the Hearth-penny be paid before the Feast of S. *Peter*; and if it then be not paid, let him carry that penny and thirty pence more to *Rome*, and confirm by a certain Certificate in writing, that he did detain it; and let him pay over and above one hundred and twenty shillings to the King. If afterward a man shall not pay it, and carry the penny and thirty pence to *Rome*, he shall pay two hundred shillings to the King; but if he shall make default the third time, he shall forfeit all he hath.

Of Festival, and Fasting-days. 5.

Let every Sunday be held a Feasting-day, from noontide of Saturday until the twilight of Munday; he which will not celebrate it, let him undergo the penalty in the Judgment-book; and other Feast-days shall be bidden; and let all Fasting-days be held with all godliness.

Canons

Canons ſet forth under King Edgar.

THeſe things which follow, belong to the Conſtitutions of King *Edgar*, concerning the Manner of Life of Men ordained to Gods ſervice.

1. We teach, that the Miniſter of God do zealouſly ſerve and miniſter to God, and intercede to God for all Chriſtian people; and that every one of them be faithful and obedient to their Superiors, and unanimous in common neceſſity, affording help to one another before God and men, and that they be firm and faithful to their Secular Lords.

2. And we teach, that every one give another honor, and that the younger do religiouſly pay love and obedience to the elder, and that the elder do diligently inſtruct the younger.

3. And we teach, that at every Synod, every year be had Books and Veſtiments agreeable to the ſervice of God; and Ink and Parchment to write their Conſtitutions, and moreover a Three-days aſſembly.

4. And we teach, that every Prieſt coming to the Synod have his Clerk, and man fed at his hand or faithful in ſervice, and none unknown, or given to folly; and let them all come together in the faith and love of God almighty.

5. We alſo teach, that if any ill happen to a Prieſt, or any one do him wrong, it be referred to the Synod; and let all take it as offered to them all, and bring help that reparation may be made according to the will of the Biſhop.

6. And we teach, that the Prieſt make known to the Synod, if any in his Pariſh be found contumacious againſt God, or who does nouriſh any grievous ſin; and that he is not able, or dares not produce him to amendment for fear of the world.

7. And we teach, that among Prieſts there be no ſtrifes and wrangling, nor let them be deferred to the Secular power; but let them be compoſed among themſelves, or if need be, put off to the Biſhop.

8. And we teach, no Prieſt whether conſecrate at Benedict, ſhall forſake his Church at his own will, but have it for his rightful wife.

9. We alſo teach, that no Prieſt meddle with thoſe things which belong to another Prieſt, whether in his Church or Pariſh, or acquaintance or fraternity, nor in any other thing belonging to him.

10. And we teach, that no Prieſt take away the Scholar of another, not having firſt asked leave of him to whom he belonged.

11. And we teach, that every Prieſt diligently learn to increaſe the learning of Handicraft trades.

12. And we teach, that every learned Prieſt does not deſpiſe an half-learned Prieſt; but as much as in him lies, endeavour to make him more learned.

13. And we teach, that no Prieſt well deſcended, does lightly eſteem a Prieſt meanly deſcended; for to a man rightly judging, all men are of the ſame ſtock.

14. And we teach, that every Prieſt behave himſelf ſo, that he be not a Merchant without right, nor uſe merchandiſe.

15. And

15. And we teach, that every Priest administer Baptism as soon as he shall be required; and that they admonish all within their Parish, that they have a care that all their Infants be baptized within thirty seven nights, and that none does too long defer to be confirmed of the Bishop.

16. And we teach, that all Priests do with all diligence promove the Christian religion, and by all their strength blot out the superstition of the Gentiles; and we do forbid feigned Will-worship, Negromancy, Divinations, Witchcrafts, Divine worship of men, and those things which lead mortal men into divers errors; and in ꝑtiꝺ ꝓlouum] on ellenum, and of divers other Trees, Stones, and the Phantasie of divers things which deceive men, which ought not.

17. And we teach, that every Christian man take care that his children be christened, and learn them their *Pater-noster* and *Creed*.

18. And we teach, that on Festival days every one abstain from the prophane Verses and Songs of the Gentiles, and from Devilish Plays.

19. And we teach, that every one abstain from fabulous and foolish readings, and from filthy and blasphemous idle talk.

20. And we teach, that upon Sunday every one abstain from merchandise, and popular meetings.

21. And we teach, that every one abstain from the company of Harlots, and embrace his right wife.

22. And we teach, that every one learn his *Pater-noster* and *Creed*, before he be buried in a consecrated Churchyard, or be accounted fit to receive the Eucharist; and that he be unworthy the name of Christian, that will not learn these things, nor suffer other men in Baptism to be washed with holy water, nor in confirmation admit of the hands of the Bishop, but all that he could avoided them.

23. And we teach, that upon Festival and Fasting-days, there be no extraordinary contentions among men.

24. And we teach, that upon Festival and Fasting days there be no administration of Oaths, or the Ordale.

25. And we teach, that upon Festival and Fasting times every man forbear to accompany his wife.

26. And we teach, that Priests keep their Churches with all worthiness in Divine Ministry, and to pure service, and to nothing else; and that they suffer not any thing more, nor any thing less, neither within, nor near it. Let there be no vain speech, nor any thing indecently done: This is not a place of inordinate drinking, nor of any manner of vanity; Neither may a Dog come into the Church-yard, nor more Hogs then a man can rule.

27. And we teach, that no man repose any thing in the Church, which may be there held uncomely.

28. And we teach, that in the Churches Vigils every one behave himself modestly, and diligently betake himself to prayer, and not given to drinking or luxury.

29. And we teach, that no man be buried in the Church, who by a good life did not please God, and thence be judged worthy of such sepulture.

30. And we teach, that no Priest celebrate Mass in any house, which is not a consecrated Church, unless it be for the extreme sickness of any one.

31. And we teach, that no Priest do at any time celebrate Mass, unless it be upon a consecrated Altar.

Canons ſet forth under King Edgar.

THeſe things which follow, belong to the Conſtitutions of King *Edgar*, concerning the Manner of Life of Men ordained to Gods ſervice.

1. We teach, that the Miniſter of God do zealouſly ſerve and miniſter to God, and intercede to God for all Chriſtian people; and that every one of them be faithful and obedient to their Superiors, and unanimous in common neceſſity, affording help to one another before God and men, and that they be firm and faithful to their Secular Lords.

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31. And we teach, that no Priest do at any time celebrate Mass, unless it be upon a consecrated Altar.

32. And we teach, that a Priest never celebrate Mass without book, and that he have the Canon before his eyes, unless something hinder it.

33. And we teach, that every Priest celebrating Mass, hath his Corporal, and Subumle under his Alban, and all his Missal vestiments, as is meet, duly woven.

34. And we teach, that every Priest be very careful to have a good book, or at least faithfully corrected.

35. And we teach, that no Mass-priest celebrate Mass alone, lest he so should want them who might answer.

36. And we teach, that no man receive the Eucharist but fasting, unless it be in dangerous sickness.

37. And we teach, that no Priest celebrate Mass above thrice at most in one day.

38. And we teach, that the Priest always hath (as is meet) the Eucharist prepared, and that he keep it in cleanness, and be very careful that it does not wax old: But if it be longer kept then is meet, so that it grows nauseous, then let it be burnt with pure fire, and be put under the altar, and let him who is guilty of the offence ask God forgiveness.

39. And we teach, that not at any time the Priest be so rash, that he celebrates Mass, unless he has all things pertaining to the Eucharist, *viz.* Pure oblation, pure wine, and pure water. Wo to them who begin Mass, if any of these be wanting; and wo to him who uncleanly hath prepared any thing to this purpose; he is like those Jews who mingled vinegar and gall, and afterward in scorn offered it to Christ.

40. And we teach, that at no time a Priest is worthy to celebrate Mass, who hath not received the Eucharist; neither in Sacred orders may he consecrate another, who is not consecrate himself.

41. And we teach, that every Cup in which the Eucharist is consecrated be Fusil, and that it be never be consecrated in wood.

42. And we teach, that all things about the Altar and belonging to the Church be very clean and worthy, and that nothing unworthy be brought hither, but what is holy may be worthily reposed; and let a light always burn in the Church whilst Mass is singing.

43. And we teach, that no man neglect any thing which is consecrated, *viz.* Holy water, Salt, Frankincense, Bread, &c.

44. And we teach, that no woman approach the altar whilst Mass is celebrated.

45. And we teach, that no man ring the Bells but at the appointed times, and that every Priest then sing his hourly Song in the Church, and in the fear of God diligently invoke and poure out his prayers for all men.

46. And we teach, that neither Mass nor Parish-priest do come within the door of the Church, or any seat in it, without his Surplice, nor to any office at the altar, without his designed vesture.

47. And we teach, that no man ordained in Sacred Orders, nourish his hair, nor without cause permits himself to be shaven, if he hopes the blessing of God, and S. *Peter*, and ours.

48. And we teach, that upon Festival and Fasting-days, all Priests be unanimous, and set forth to the people the same things in one and the same manner, lest otherwise they might lead them into error.

49. And

49. And we teach, that every Fast be made more grateful by the distribution of alms; for, whosoever out of his devotion to God, diligently gives alms; without doubt he renders his Fast more pleasing to God.

50. And we teach, that Priests in the office of the Church do unanimously endeavour it, and that in every Church they deserve a like yearly stipend.

51. And we teach, that Priests diligently instruct youth, and draw them to learn arts, that afterwards they may have the aid of the Church.

52. And we teach, that Priests upon every Sunday preach to the people, and shew themselves an example of good life.

53. And we teach, that no Christian man eats blood of any kind. (*Litura est.*)

54. And we teach, that Priests instruct the people of these things which of right ought to be rendred to God, *viz.* Tythes and other things, among which that which is called the Alms of the Plough, within fifteen nights after *Easter*; the tithes of young living creatures, before *Whitsuntide*; the tithe of the Fruits of the earth, before the celebration of *All-Saints*; and *Rome-money* at the feast of S. *Peter*; and *Cirlcsceatum (Idem cum Cirlesfetum)* at the feast of S. *Martin*.

* *Cirlcsetum, vel Primitiæ seminum.*

* *Peter-pence.*

55. And we teach, that Priests so distribute the alms of the people, that they render God more merciful, and the people more disposed to alms.

56. And we teach, that Priests sing Psalms when they distribute the alms given, and exhort the poor that they diligently pray for the people which gave these alms.

57. And we teach, that Priests themselves avoid drunkenness, and be careful that it may be avoided by other men.

58. And we teach, that no Priest be either Poet or Stage-player, whether it be to please himself or other men; but that he so behave himself as is meet for his order, prudent, and worshipful.

59. And we teach, that Priests do not swear, and be careful to prevent it in others.

60. And we teach, that no Priest love the company of Women more then is meet, but that he love his own proper wife, that is the Church.

61. And we teach, that no Priest bears false witness, nor be of council with Thieves.

62. And we teach, that a Priest, besides his duty, never intangle himself with the Ordale, or Forein oaths.

63. And we teach, that in purgation a Priest swear not against a man of free condition, unless he of free condition swore before.

64. And we teach that a Priest be not a Hunter, nor Hawker, nor Drinker, but conversant with his Books, as becomes his order.

65. And we teach, that every Priest should teach Confession and Penance, and that men confessing their sins might also make satisfaction; and that as need requires, he administer the Eucharist, and the Unction, if it be desired: After death let it be carefully covered, and where the body is, let nothing vain or unseemly be permitted, but buried in the fear of God.

66. And we teach, that every Priest hath oil, as well to baptize infants, as to anoint the sick, and all other apparel due to their publick ministry; and by all means promote the Christian faith, here by well preaching, there by

by shewing an example in well living. Then shall he so be enriched, that Almighty God may be merciful to him.

67. And we teach, that every Priest repeating his Chrism, doth not forget to tell what he should have done for the King & Bishop in his prayers.

Of Confession.

1. When any one will make confession of his sins, let him do it manly and not blush to confess his sins and wickedness in accusing himself; because from thence comes indulgence, and because without confession there is no forgiveness; for confession heals, confession justifies.

[*Here is a great space in the original Manuscript.*]

O Lord, I beg that thy mercy may prevent this thy servant, that all his iniquities may suddenly be blotted out by Jesus Christ our Lord.

Hear, I beseech thee, O Lord, the prayers of the humble crying unto thee, I beseech thee O Lord.

2. This thing is to be seriously meditated by him who is constituted Physitian for the souls of men, and that he should have known their actions, *viz.* that he may rightly discern them, and hold a right reason, in imposing censure upon every one of them. However the matter be, let not the Physitian prejudge the Sinner, nor thrust him into desperation. When any one will confess his sins, first he shall hear him courteously what this his intention should be, and whether he would or could humbly confess those things he had committed, and search out all his guilt.

3. Ask him of his manners, and extort his guilt, and lay before him all those things he has done. But this keep always secret, that you may never in the same manner judge rich and poor, freemen and servants, those elder and those younger, the healthful and unhealthful, the humble and proud, the strong and weak, them in Gods service, and the secular.

A prudent Judge shall wisely distinguish concerning the fact, *viz.* What, how, where, and when it was committed: And though in no place or time sin is lawful, yet upon Festival and Fasting-days, and Festival places, every one ought more carefully to abstain from this. And by how much the greater, or of more dignity any one is, so much more grievously is every one to be corrected before God and man for his sins: For to the strong and feeble, a like burden is not to be imposed, nor upon one infirm as one healthful, but men must distinguish between them with a prudent moderation.

4. After these things, the Penitent may humbly arise to his confession, and first say, I believe in God the Father Almighty, Governor of all things, and in his Son, and in the Holy Ghost; and I believe there is life after death, and I believe I shall rise again in the day of Judgment; and I believe that I by the power of God and his mercy am worthy of all these things.

5. After these things, with a sorrowful mind he may humbly make his confession to his Confessor, and bowing his head may say in this manner: I confess to Almighty God, and Confessor my spiritual Physitian, all the sins which ever I have committed by the pollution of Evil Spirits,

Spirits, whether in deed or thought, whether with men or women, or any other creature, whether by nature or against nature.

6. I confess my Gluttony morning and evening; I confess all my avarice, envy and backbiting, and deceitful vice, lying and vain-boasting, vain speech, ungodly prodigality and haughtiness in every kind, which hath any ways happened to this unbridled body of mine: I confess I have often been the author of sin, the favorer of sin, conscious of sin, and teacher of sin.

7. I confess in my mind to have committed Murder, and Perjuries, and Sedition, and Pride, and neglect of all Gods commands. I confess all those things which I ever saw with mine eyes, either coveting, or unduly reproaching; and also all those vain and superfluous things, which I have heard with mine ears, or spoke with my tongue.

8. I confess all sins of my body, of skin and flesh, and bones and nerves, and of kidnies and gristles, and of my tongue and lips, and of my jaws, and teeth, and hair; of my marrow, and of every other thing which is soft or hard, wet or dry. I confess I have observed my Baptism worse then I have promised to my Lord, and the profession by which I was bound to keep for the praise of God and his Saints, and the eternal health of my self. I confess I have often neglected my Canonical hours, and have often forsworne the Life of God, and taken his Name in vain.

9. I ask and beseech my Lord for remission of all these, that the Devil may never by his snares prevail against me, lest at any time I should die without confession and amendment of my sins, even as to day I have confessed all my sins before our Lord and Saviour Christ, who governs heaven and earth, and before that Altar and those Reliques, and before my Confessor and Mass-priest of the Lord, and as I have given a pure and true confession, and am ready to correct all my sins, and as much as in me lies, with all carefulness hereafter to avoid them.

10. And thou, O Jesu Christ my Saviour, have mercy upon my soul, and forgive, I pray, and blot out all my sins and transgressions, which I have ever either heretofore or lately committed; and lead me into thy heavenly kingdom, that there I may be conversant with the Elected and thy Saints without end and for ever. Now I humbly beseech thee, O Priest of God, that thou be a witness for me in the day of Judgment, that the Devil hereafter may have no power over me, and that thou mayst be a pleader for me to the Lord, that I may amend my sins and transgressions, and desist from committing the like again. May God enable me to perform this, who liveth and reigneth without end in everlasting. *Amen.*

The manner of injoining Penance.

1. If an old man or young man, rich or poor man, sound or infirm, shall unwillingly offend another of any order, it shall not be so taken as if he had wilfully done it, or on set purpose: And also if any one compelled by necessity shall have committed any sin; for this thing, because he did by necessity commit it, he shall always rather deserve forgiveness and milder censure.

2. Each Deed is to be carefully distinguished, for Gods and Mans sake.

These

These Services are observed in Parts beyond Sea, viz.

3. That every Bishop take his Episcopal seat upon that Wednesday which is called the head of the * Fast, and then let every one in his Diocese come unto him who is guilty of any grievous crime, and when he shall have confessed this, his Confessor shall teach him penance proportionable to the crime he is guilty of: And if any one be worthy of a more grievous sentence, he shall separate him from the communion of the Church, yet shall he grant and exhort him that he follow his necessary imployment, and so at length he may return home having obtained pardon.

Ashwednesday.

4. And after that, upon *Maunday-Thursday*, let all be called together to the same place; and the Bishop singing over them some of the Hymns, pronounce absolution to them, and give them leave to return home with his benediction to them. This is to be observed of all Christians.

5. Yet ought the Priest diligently to enquire with what contrition, and with what perfection and plenitude every one hath fulfilled the penance enjoined him, and accordingly grant this remission.

6. If a Layman without cause kill another, let him fast seven years in bread and water, and four of them as his Confessor shall appoint, and also the seven years penance to boot, and alwaies bewail his sin all he can, because it is unknown to men how much his penance hath prevailed with God.

7. If a man desire to kill another, and cannot fulfil it, let him fast three years, *viz.* one with bread and water, the other two as his Confessor shall injoin him.

8. If a man shall unwillingly slay a Layman, let him fast three years, one with bread and water, the other two as his Confessor shall appoint, and let him always lament his transgressions.

9. If he were a Subdeacon, let him fast six years; if he were a Deacon, let him fast seven years; if he were a Mass-priest, ten years; and if a Bishop, twelve, and always lament.

10. If any man so chastise his son, that he thereof die, although against his will; let him fast five years with bread and water *ut supra.*

11. If a Bishop or Mass-priest shall kill any one, let him lose the dignity of his Order, and his penance be always.

12. If a woman shall kill an infant either in her womb, or after it shall be born, whether by taking a potion, or any other way; let her fast ten years, *viz.* three in bread and water, and the other seven accordingly as her Confessor shall in mercy impose, and always bewail the fact.

13. If a man without cause in his rage slea his אשתו, let him fast 3 years.

14. If a husband shall out of any impious jealousie beat his wife, so as she therefore dies guiltless; yet let him fast three years, and always bewail his misdeed.

15. If a man shall of his own accord have killed himself, whether with a weapon, or any other deviliſh instigation, it is not lawful for any man to sing a Mass for such a man, nor to bury him with singing Psalms, nor to cover him with earth being laid in a lawful sepulchre. The same Judgment is to be given upon him, who mischievously ended his life with pain; as also a Thief, Murderer, or Betrayer of his Master.

16. If any one of twenty years of age hath defiled himself with a beast, be it male or female, let him fast fifteen years. And if he hath a wife, and be forty years old, and shall have done such a thing, let him both abstain

ſtain and faſt all his life long; nor let him preſume, until he be ready to die, to take the body of our Lord. A young man, or fooliſh, ſhall be grievouſly beaten, who ſhall commit any ſuch fault.

17. Whoſoever ſhall break wedlock, be it wife or husband, ſhall faſt three days in every week with bread and water, for the ſpace of 7 years.

18. Whoſoever repudiates his wife and takes another, diſſolves the wedlock. No man ought to caſt off, though for life or death, any of thoſe things which by due right belong to Chriſtians; neither may he be buried, who does this among Chriſtians: And concerning a Wife, let the ſame thing be done: And the Kindred who were preſent, or gave counſel to theſe things, let them be puniſhed with the ſame ſentence, unleſs they ſooner repent and diligently amend.

19. If a man hath a Wife, and alſo a Concubine, let no Prieſt give them any thing belonging to Chriſtian rights, unleſs he penitently return to amendment: The ſame Law ſhall be to a woman, whether ſhe were Wife or Concubine.

20. If any one married commit adultery with the lawful wife of another, or any wife with the lawful husband of another; let either of them faſt ſeven years, *viz.* three in bread and water, and four as the Confeſſor ſhall teach, and lament their tranſgreſſions as long as they live.

21. If any woman ſhall take to her two brethren in marriage, one after another, they deſerve judgment, and to be put to moſt ſtrict penance as long as they live, as their Confeſſor ſhall inſtruct them; and dying, the Prieſt confer upon them the due obſequies of Chriſtians, if they ſhall have promiſed this, that they would have longer done their penance, if they ſhould longer have lived.

22. If any one ſhall have continued in the exerciſe of any ſin all his life-long without any repentance; we know not what counſel we can imagine for this man, unleſs to leave him to Gods judgment; nor can he be abſolved.

23. If a woman be betrothed to a man, it is not lawful for another to marry her; if any man does, let him be excommunicated.

24. If any man takes away by deceit a Wife or Virgin for his Concubine, againſt her will, let him be excommunicated.

25. If any one ſhall entice away the Waiting-woman of another, to lie with her, and ſhall lie with her againſt her will; if he be in Orders, he ſhall loſe the dignity of his Order; but if he be a Laick, he ſhall be excommunicated from every Chriſtian thing.

26. If a Virgin be betrothed, and before marriage be made a Captive, or by any other accident be carried away from him to whom ſhe is betrothed, and it happen that afterward ſhe come into the ſight of her Spouſe, leave being firſt asked, they may cohabit *carnaliter*, becauſe ſhe was taken from him againſt her will.

27. If a woman ſhall enter into Religion, and afterwards returning to worldly vanities, ſhall take the adminiſtration of a family, thinking with herſelf, that ſhe may ſatisfie God from whom ſhe hath turned aſide, out of her goods; this can in no wiſe be, unleſs ſhe turn away from the cuſtom of her ſin, and return to Chriſt, that ſhe may lead her life as her Confeſſor ſhall inſtruct her, and always carefully amend her trangreſſion.

28. If a Maſs-prieſt or Monk kill a man, let him loſe the dignity of his

These Services are observed in Parts beyond Sea, viz.

3. That every Bishop take his Episcopal seat upon that Wednesday which is called the head of the * Fast, and then let every one in his Diocese come unto him who is guilty of any grievous crime, and when he shall have confessed this, his Confessor shall teach him penance proportionable to the crime he is guilty of: And if any one be worthy of a more grievous sentence, he shall separate him from the communion of the Church; yet shall he grant and exhort him that he follow his necessary imployment, and so at length he may return home having obtained pardon.

Ashwednesday.

4. And after that, upon *Maunday-Thursday*, let all be called together to the same place; and the Bishop singing over them some of the Hymns, pronounce absolution to them, and give them leave to return home with his benediction to them. This is to be observed of all Christians.

5. Yet ought the Priest diligently to enquire with what contrition, and with what perfection and plenitude every one hath fulfilled the penance enjoined him, and accordingly grant this remission.

6. If a Layman without cause kill another, let him fast seven years in bread and water, and four of them as his Confessor shall appoint, and also the seven years penance to boot, and alwaies bewail his sin all he can, because it is unknown to men how much his penance hath prevailed with God.

7. If a man desire to kill another, and cannot fulfil it, let him fast three years, *viz.* one with bread and water, the other two as his Confessor shall injoin him.

8. If a man shall unwillingly slay a Layman, let him fast three years, one with bread and water, the other two as his Confessor shall appoint, and let him always lament his transgressions.

9. If he were a Subdeacon, let him fast six years; if he were a Deacon, let him fast seven years; if he were a Mass-priest, ten years; and if a Bishop, twelve, and always lament.

10. If any man so chastise his son, that he thereof die, although against his will; let him fast five years with bread and water *ut supra.*

11. If a Bishop or Mass-priest shall kill any one, let him lose the dignity of his Order, and his penance be always.

12. If a woman shall kill an infant either in her womb, or after it shall be born, whether by taking a potion, or any other way; let her fast ten years, *viz.* three in bread and water, and the other seven accordingly as her Confessor shall in mercy impose, and always bewail the fact.

13. If a man without cause in his rage slea his ϸeow, let him fast 3 years.

14. If a husband shall out of any impious jealousie beat his wife, so as she therefore dies guiltless; yet let him fast three years, and always bewail his misdeed.

15. If a man shall of his own accord have killed himself, whether with a weapon, or any other deviliſh instigation, it is not lawful for any man to sing a Mass for such a man, nor to bury him with singing Psalms, nor to cover him with earth being laid in a lawful sepulchre. The same Judgment is to be given upon him, who mischievously ended his life with pain; as also a Thief, Murderer, or Betrayer of his Master.

16. If any one of twenty years of age hath defiled himself with a beast, be it male or female, let him fast fifteen years. And if he hath a wife, and be forty years old, and shall have done such a thing, let him both abstain

ſtain and faſt all his life long; nor let him preſume, until he be ready to die, to take the body of our Lord. A young man, or fooliſh, ſhall be grievouſly beaten, who ſhall commit any ſuch fault.

17. Whoſoever ſhall break wedlock, be it wife or husband, ſhall faſt three days in every week with bread and water, for the ſpace of 7 years.

18. Whoſoever repudiates his wife and takes another, diſſolves the wedlock. No man ought to caſt off, though for life or death, any of thoſe things which by due right belong to Chriſtians; neither may he be buried, who does this among Chriſtians: And concerning a Wife, let the ſame thing be done: And the Kindred who were preſent, or gave counſel to theſe things, let them be puniſhed with the ſame ſentence, unleſs they ſooner repent and diligently amend.

19. If a man hath a Wife, and alſo a Concubine, let no Prieſt give them any thing belonging to Chriſtian rights, unleſs he penitently return to amendment: The ſame Law ſhall be to a woman, whether ſhe were Wife or Concubine.

20. If any one married commit adultery with the lawful wife of another, or any wife with the lawful husband of another; let either of them faſt ſeven years, *viz.* three in bread and water, and four as the Confeſſor ſhall teach, and lament their tranſgreſſions as long as they live.

21. If any woman ſhall take to her two brethren in marriage, one after another, they deſerve judgment, and to be put to moſt ſtrict penance as long as they live, as their Confeſſor ſhall inſtruct them; and dying, the Prieſt confer upon them the due obſequies of Chriſtians, if they ſhall have promiſed this, that they would have longer done their penance, if they ſhould longer have lived.

22. If any one ſhall have continued in the exerciſe of any ſin all his life-long without any repentance; we know not what counſel we can imagine for this man, unleſs to leave him to Gods judgment; nor can he be abſolved.

23. If a woman be betrothed to a man, it is not lawful for another to marry her; if any man does, let him be excommunicated.

24. If any man takes away by deceit a Wife or Virgin for his Concubine, againſt her will, let him be excommunicated.

25. If any one ſhall entice away the Waiting-woman of another, to lie with her, and ſhall lie with her againſt her will; if he be in Orders, he ſhall loſe the dignity of his Order; but if he be a Laick, he ſhall be excommunicated from every Chriſtian thing.

26. If a Virgin be betrothed, and before marriage be made a Captive, or by any other accident be carried away from him to whom ſhe is betrothed, and it happen that afterward ſhe come into the ſight of her Spouſe, leave being firſt asked, they may cohabit *carnaliter*, becauſe ſhe was taken from him againſt her will.

27. If a woman ſhall enter into Religion, and afterwards returning to worldly vanities, ſhall take the adminiſtration of a family, thinking with herſelf, that ſhe may ſatisfie God from whom ſhe hath turned aſide, out of her goods; this can in no wiſe be, unleſs ſhe turn away from the cuſtom of her ſin, and return to Chriſt, that ſhe may lead her life as her Confeſſor ſhall inſtruct her, and always carefully amend her trangreſſion.

28. If a Maſs-prieſt or Monk kill a man, let him loſe the dignity of his

his Order, and faſt ten years, *viz.* five with bread and water, and all the other five, three days in every week, in the reſt let him enjoy meat, and while he lives, diligently lament his crime. A Deacon, eight years with bread and water, and the other as aboveſaid: A Clerk, ſix years, whereof four with bread and water: A Laick, five years, three with bread and water, *ut ſupra.*

29. If any man kill a man in Orders, or his next Couſin, he ſhall forfeit his land and goods, and ſhall be done to as the Pope ſhall appoint, and moreover ſhall always lament.

30. If a Maſs-prieſt or Monk be wantonly luſtful, or violate matrimony, let him faſt ten years, and always lament; a Deacon ſeven, a Clerk ſix, a Laick five. So be it.

31. If a Maſs-prieſt, or Monk, or Deacon hath a lawful wife before he took Orders, and having left her, entred into Religion; yet afterwards raging in luſt, ſhall privily take her; let every one of them faſt as for manſlaughter, and moreover vehemently lament.

32. If a Maſs-prieſt, or Monk, or Deacon, or Laick, or Clerk ſhall commit fornication with a Nun, let every one faſt as is meet for his Order, as for homicide, and as long as he lives abſtain from fleſh; and a Nun ten years, as alſo a Maſs-prieſt, and always lament the fact.

33. If any one would have any carnal knowledge of a Nun, and ſhe would not, let him faſt one year with bread and water for his wicked thought. If a man would know carnally the lawful wife of another, and ſhe would not, let him faſt one year for his impious thought with bread and water.

34. If any man would know the lawful wife of another, and ſhe would not, let him faſt three *Lents* with bread and water, *viz.* the firſt in Summer, another in Autumn, and a third in Winter.

35. If any one would have to do any unlawful thing with a woman, let him faſt forty days in bread and water.

36. If a man ſhall have taken another with his daughter, let him compound with the harlot, and either of them faſt a year upon Wedneſdays and Fridays; on other days they may eat any meat but fleſh, and imbrace their own wedlock.

37. If a man know carnally a beaſt, let him faſt fifteen years, *viz.* eight in bread and water; in the other ſeven, three *Lents* in every year; and upon Wedneſdays and Fridays as long as he lives, and always lament his ſin.

38. If a man defile himſelf voluntarily, let him faſt three years, and in every one of them forty days in bread and water, and abſtain from fleſh upon every one except Sunday.

39. If any one kill another with witchcraft, let him faſt ſeven years, *viz.* three years in bread and water, and on the four other, three days in every week in bread and water, and alwaies lament.

40. If any man ſhall have given a diſeaſe to another, let him faſt three years, *viz.* one in bread and water. But if he chance to die thereof, then let him faſt ſeven years, as is here aſcribed, and alwaies lament his miſdeeds.

41. If any one uſes witchcraft to procure love, and therefore compound any drugs or amorous potion to eat or drink, or uſe Negromancie; if he be a Laick, let him faſt upon Wedneſdaies and Fridaies half a year in bread and water, but upon other daies let him enjoy meat, that is not fleſh. A Clerk,

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one year *ut supra*, three days in every week in bread and water. A Deacon three years *ut supra*. A Mass-priest five years, whereof one in bread and water, and on every Friday of the other in bread and water, and on the other days let him abstain from flesh.

42. If any man against nature, and against the good creature of God, any waies defiles himself, let him lament whilst he lives what he hath perpetrated.

43. If any one overlaies an infant in sleep, whereof it dies, let him fast three years, one of them in bread and water, and in the other two, three daies in every week. But if it shall happen from drunkenness, he shall be more grievously punished as his Confessor shall teach, and the delinquent alwaies lament.

44. If an infirm infant dies a Heathen, and this came to pass by fault of the Priest, let him lose the degree of his Ordination, and diligently make compensation. And if it hapned through the negligence of his friends, let them fast three years, *viz.* one in bread and water, and the other two, three daies in a week, and alwaies bewail it.

45. If any shall sell any Christian to a Heathen, let him be unworthy to enjoy any benefit of Christian folk, unless he speedily redeem him home again, because he had sold him from home: And if he cannot do this, let him distribute that price altogether on Gods grace, and free another Captive with another ransom, and set him free. And this let him fulfill three years, as his Confessor shall appoint: And if he hath not means by which he may redeem the Captive, let him increase his punishment into seven years penance, and alwaies lament.

46. If any shall grievously offend by manifold sinning, and desires at length to leave and correct these things, let him often go to the Monastery, and there alwaies serve God and man as he shall be taught; or let him depart a great way from his country, and alwaies repent whilst he lives, and help his soul, at least her on earth, with all profound amendment which he may find, as shall be taught him.

Of Satisfaction.

1. In this kind of confession, the help of some Divine does very much conduce to the expiation of sin, not less then the counsel of some learned Physitian to the curing of a disease.

2. Oftentimes men sin by concupiscence, and sometimes through the instigation of the Devil; and that is most terrible, that men bound to God, so often against God, as they lose their dignity.

3. And to amend this, there is need of severe penance, but alwaies according to the manner of the order and sin, as is ordained in the Canons; and every one ought with all his strength and endeavour, and also with trouble from the bottom of his heart to go about this. Some may undergo the penance of one year, some of more, but alwaies after the manner of the sin; some of one moneth, others of more; some of one week, others of more weeks; and some of one day, others of more; and some all the daies of their life.

4. It behoves a Physitian, who will heal grievous wounds, to make use of exquisite medicines: But there are none so grievous wounds as these sins,

for these wounds lead men to eternal death, unless by confession, repentance or satisfaction they make themselves whole.

5. Therefore, both man and woman may be Physitians who should heal these wounds: First the wound is to be inquired into by good counsel; then the ulcerated matter, which does inwardly putrifie, is to be let out, that is, he purge himself through confession.

6. Every man who will blot out his sins by confession, embraces sound doctrine, not less then he, who takes a healthful potion from the Physitian, a deadly disease.

7. No Physitian can rightly cure any disease or wound, until the venemous matter which putrifies inwardly, be drawn out: Neither can any man rightly teach penance, who refuses to confess; nor can without confession of sins, pronounce absolution; like as he cannot well be made sound, who hath drunk any deadly thing, unless the venemous force be expelled.

8. Confession being finished, any man may by penance easily obtain Gods mercy, if he does this from the bottom of his heart, and moreover deplore that he seduced by the Devil committed these sins.

9. A prudent amendment does very much benefit this confession, as the cure of a sickness a good Physitian. Concerning the works of any one, the Confessor may enquire by the Canons, and moderate according to the power and wealth of them confessing, as he believs the contrition and carefulness of any ones heart.

10. That is great penance, when a Laick must lay down his arms, and make pilgrimage far and neer barefoot; who must not lie two nights in one place, who fasts much and watches, who daies and nights prays earnestly, and who willingly wearies himself, and who is so untrimmed, that no iron hath touched his hair or nails.

11. Who neither comes into warm bath, nor soft bed, nor tastes flesh, nor drink which may make him drunk; who comes not into a Church, but yet zealously seeks holy places, and confesses his sins, and asks intercession; who kisses no body, yet bitterly deplores his sins.

12. He is propitious to himself, who in this manner prejudgeth himself: And indeed this man is happy, although in nothing he is more unwatchful, then that he might fully correct himself. Neither was there ever in the world any so grievous a sinner, but he might appease God, if he ardently went this way.

13. There are many waies to appease God for sins; and alms do very much conduce to the forgiveness of them.

14. He who hath means sufficient, let him build a Church to the praise of God; and if he hath more besides, let him give land to it, and bring in young men, who may perform holy service for him, and therefore daily minister to God; and let him repair Gods Church for his means, and Highwaies; let him make Bridges over unpassable waters, and dirty places; let him distribute for Gods sake that which he has, and with as much diligence as he can; let him carefully relieve the poor, widows, orphans and strangers; let him manumiss his own servant, let him redeem servants from other men to be set free, especially the poor man taken in war; let him feed and clothe men in want, and allow them houseroom and firing, and bath and bedding; and in his necessity in all places let him make intercession in singing Masses and Psalms; and let him in his devotion towards his Lord

Lord God very much chaſtiſe himſelf, by abſtaining from meat and drink, and all other bodily deſires.

15. And he who hath leſs means, let him ſet himſelf all he can, that in his devotion towards God he paies tithes of all he poſſeſſeth; that he examine himſelf as often as he can, and often with alms viſit Churches, and ſalute Holy places with lights, and give his houſe meat, and protection to them that need, and alſo fire and ſome nouriſhment, and bed and bath, and take care to clothe and feed the poor as much as he can.

16. For Gods love let him viſit the ſorrowful and ſick, and bury the dead, often in ſecret lie proſtrate upon his knees, and often lie proſtrate and ſtretched out upon the ground; let him faſt, watch and pray, night and day diligently. He who hath not means ſufficient to perform all theſe things, let him endeavour to do as much as he is able: Let him wear out his body againſt luſt, if ever by delicacie or luſt he hath pleaſed the devil: Now let him by faſting correct that ſin, which before he had committed by gluttony; and let him often watch and labor, if at any time he were wonted to the contrary, and given to eaſe, when he ought not, or had at other times beyond meaſure watched in vain: Let him afflict himſelf with cold, and frozen baths, for that heat whereof he ſinned by luſt. If he hath any where offended another unjuſtly, let him diligently make amends; and if another hath offended him, let him be appeaſed as much as in him lies, againſt thoſe ſins which grew up in himſelf from the ſeed of the Devil: And if he hath miſled any one out of the way, that he might make any gain thereof, let him carefully reduce him to the right way. This is that which I will. If he ſhall have provoked any one to ſin, let him do to him what is neceſſary, *viz.* Let him reclaim him from his ſins, and again lead him in the right way. He who diligently dehorts another from his ſins, renders his own the lighter.

17. This judgment every one by the councel of his Confeſſor may give himſelf, who with a conſtant mind will break off his ſins and correct them, *viz.* Let him diſtribute for Gods love all he hath; let him leave with them, lands, country, and all the deſirable things of this world, and ſerve the Lord day and night, and endeavor by all the power he can againſt his worldly deſires all the daies of his life. What then is left? that by exhorting others, he gathers to him for the ſtudy of godlineſs, by all poſſible means he can.

Here in theſe following, ſhall be ſaid how any Sick man may redeem his declared Faſt.

18. Every man may redeem the faſt of one day with one penny; and any one may redeem the faſt of one day with two hundred and twenty Pſalms; and any one may redeem the faſt of twelve moneths, with 30ˢ. or by ſetting free any one of that price: And for one daies faſt let him ſing ſix times *Beati*, and alſo ſix times *Pater noſter*; and for the faſt of one day, let that man bend his knee, and bow himſelf to the ground ſixty times, ſaying *Pater noſter*. And alſo a man may abſolve the faſt of one day, if in his prayers to God he through all his members lift up himſelf to God by true confeſſion and right faith, and fifteen times ſing *Miſerere mei Deus*, and alſo *Pater noſter* fifteen times; Then is a lightening of the ſins of the whole day granted to him.

19. Any man may abſolve a ſeven Winters faſt in one year, if he daily

ſhall ſing the Pſalms of the Pſalter, and do the ſame at night, and fifty on the evening; one Maſs may abſolve the faſt of twelve daies, and with ten Maſſes the faſt of four moneths may be bought off, and with thirty Maſſes the faſt of a whole year may be bought off, if any man will out of true love to God intercede for himſelf, and confeſs his ſins to his Confeſſor, and amend thoſe things as he is bidden, and alwaies afterward avoid them.

Of the Penance of Mighty men.

1. Thus a mighty man, and having many friends, may by the help of his friends mitigate his penance. Firſt, in the name of God, and by the teſtimony of his Confeſſor, let him manifeſt a right faith, and forgive all who may have ſinned againſt him, and make his confeſſion without any omiſſion of his ſins, and endeavour to repent, and take his penance with much grief.

2. Then let him lay down his Arms, and unprofitable things, and *Pœle penca*, and taking his ſtaff in his hand, let him go diligently bare-foot, and let him uſe hair-ſhirts, nor come on a bed, but lie in a cottage, and do this the number of ſeven years, and prepare himſelf three years on this manner, and take to his aid twelve of his companions; let them faſt three daies with bread, crude pottage, and water; and let him get as well as he can, to finiſh the work, ſeven times an hundred and twenty men, who may every one of them faſt for his ſake three daies; ſo the number of theſe Faſts will amount to ſo many Faſts, as there are daies in the ſeven years.

3. When any one faſts, let him diſtribute the diſhes wherein his meat was, to all the poor men of God; and in the three daies of his Faſt, let him lay aſide all worldly buſineſs, and day and night as often as he can go to Church, and diligently watch there in Alms light, and cry to God, and beg remiſſion of ſins with a ſorrowful ſpirit and bended knees. Alſo let him often ſtretch himſelf upon the ſign of the Croſs, now ſtanding upright, now proſtrate upon the ground; and let every mighty man learn ſincerely to weep and deplore his ſins; and alſo on thoſe three daies feed as many poor men as he can; upon the fourth, let him ſtoop down to waſh their feet; and let there upon the ſame day be celebrated for the Penitent ſo many Maſſes, as any one can by any means perform, and on the time of the Maſſes let him be abſolved; and then let him take the Euchariſt, unleſs that through too much guilt he be ſo hindred, that he dares not take it: Yet let him promiſe for the future, as much as in him lies, alwaies to do well, and whilſt he lives, by Gods help, to avoid injuſtice, ſo as he may alwaies and rightly hold his Chriſtendom, and renounce Heathenism. Minde, O ye Miniſters of God, his words, and diligently correct his works, that ſo he may ſet up all Juſtice, and, by the help of God, as much as in him lies, deſtroy Injuſtice. It is very neceſſary he ſhould perform that to God, even in the leaſt thing, which he hath promiſed.

4. This is the lightening of the penance of Great men, who abound in many friends: But it is not granted to an Indigent man to proceed ſo: It is therefore expedient more ſtrongly to exact this of him; and that as is meet that every one ſhould waſh away his ſins, and undergo himſelf his correction. *Scriptum eſt enim, Quia unuſquiſque onus ſuum portabit.*

Theſe Canons are ſet out in the Original by *Abraham Wheelock*, and by him tranſlated into Latine, in his Addition to the Hiſtory of *Bede*, between the Laws of King *Edgar* and *Ethelred*, *pag.* 65. until 88.

Eccle-

Eccleſiaſtical Laws made by Canutus, *who began to reign in the year of our Lord* 1016.

THis is the Decree, which *Canutus* King of *England*, of *Denmark* and *Norway*, by the counſel of the wiſe men, to the glory of the Immortal God, the ornament of the Royal Majeſty, and the utility of the people, hath ordained at *Wincheſter*, upon * Midwintertide. * *Chriſtmas-day.*

1. Firſt of all, let all men devoutly and holily worſhip only one God, and ſtrictly hold themſelves to one rule of Chriſtian religion, and obey with all faith and obſervance King *Canutus*.

2. And protect Gods Church, and defend it, and frequent it as well for the health of our ſoul, as the commodity of others. It is meet that one peace be comprehended in all Chriſtian Churches, and alſo that all Chriſtian men have it in great veneration. For, Gods peace is to be wiſhed for before other things; next after that, the Kings peace is to be kept. It is therefore very meet, that the peace of the Church of God, and the tranquillity delivered into the Kings hand, be alwaies kept inviolable. If any man ſhall violate either, let him be fined and ſuffer death, unleſs the King ſhall forgive it. But if any one ſhall ever hereafter break the peace of the Church of God, ſo as he kill a man within the walls of a Church, let it be inexpiable, and all men for the love of God perſecute him as an enemy, unleſs he flee from thence to ſome *Aſylum*, that the King may ſuffer him to enjoy his life, after he had abundantly given recompence to God and man: Which if he ſhall do, and pay to Chriſt and the King the price of his head, then let him be inlawed: And then if he go about to make compenſation, and the King ſuffer it, let him pay the whole mulct of the Church, which is in the name of the breach of the Kings peace, and purge the Church, and be ready to perform what is meet to the Kindred and Lord of him who is killed, and be very diligent to return into Gods favor.

3. And if any man break the peace of the Church, and do not kill any man, let him make compenſation according to the nature of the crime, whether he did ſtrike, or ſtole, or committed any other wickedneſs. Firſt then, let the mulct be paid according to the nature of the crime, and the excellency of the Church: For there is not one and the ſame terrene dignity of all Churches, although all are of the ſame Divine conſecration. Thoſe crimes which may be expiated, if done in a Mother-church, let them pacifie the King, that is, with five pounds in Engliſh money; and a Middle-church with an hundred and twenty ſhillings, and that is the Kings fine; and if it be a leſſer, where there is little Service, and hath a church-yard, with ſixty aſhillings; and if a Field-church without a church-yard, with thirty ſhillings.

4. All Chriſtian men ought principally to be very careful, that Gods Holineſs, and Orders, and Places conſecrated to him, be religiouſly obſerved, and to give a due reſpect to every degree: For let them underſtand that will, or can, much and more is it that the Prieſt hath to do for the benefit of the people, if he rightly conſider it; much is the Supplications, and more is the Conſecrations, by which in conſecrating Baptiſm and the Euchariſt, the Devil is beaten and driven back; and Angels do incompaſs holy

holy things, and defend their deeds, and through Gods power the Prieſt does ſuſtain them, as often as he does truly ſerve Chriſt. That is it, they do all the while the Prieſt doth from his ſoul beg of Chriſt, and earneſtly requeſt of him thoſe things which are neceſſary for the life of the people: They therefore for the fear of God ought to be preferred in dignity before other men.

5. And if any man accuſe a Prieſt Regular, and he is conſcious of no ſuch crime, let him celebrate the Maſs, and take the Euchariſt thereon, if he fear not to do it, and it ſhall free him from the calumny of one man: But if there be a threefold accuſation, having taken the Euchariſt, (if he preſume to do it) and having joined himſelf to two of his Order, let him blot out all ſuſpition of the ſuppoſed crime. If any one ſhall accuſe a Deacon being a Regular, of a crime by a ſingle teſtimony, the Deacon conjoining himſelf with two of his Order, may free himſelf from the crime: But if there be a threefold accuſation againſt him, the Elders of that Order being aſſembled, let him free himſelf of the crime. If any accuſe a Country-Prieſt, who hath bound himſelf in no Order of Religion, let him purge himſelf as a Deacon living by rule. If any man who ſerves at the Altar be accuſed of a crime, and is ſo friendleſs that he cannot get one who will ſwear with him, let him eat the execrated bread, and let God judge of the thing; unleſs it be lawful by taking the Euchariſt to free himſelf from the crime. If any man in holy orders be accuſed of capital Broils, ſo as that he were the author or counſellor of the death of another, let him be acquitted by offering himſelf to the kindred of them who were ſo beguiled or ſlain; and if he hath no kindred, let him betake himſelf to his companion, or faſt until he be lean, and eat the execrated * bread, and let God give judgment thereupon. But let not a Monk anywhere with right accuſe another of breach of friendſhip, or pay any thing for feuds; for he hath rejected whatſoever he might acquire by the right of kindred, when he firſt bound himſelf to the rule he profeſſes. If a Maſs-prieſt be not very upright in taking of witneſs, or be forſworne, or be the author or counſellor of any theft, let him be diſpoiled of the dignity of his function, and be deprived as well of all ſociety and friendſhip, as honor, unleſs he ſhall give abundant ſatisfaction to God and man, as he ſhall be commanded by the Biſhop; yet let him give ſecurity, that afterward he ſhall not commit ſuch things. But if he will purge himſelf, let him do it by the triple purgation, or according to the nature of the crime.

*Copynæve

An exhortation to Churchmen to live well.

6. And we command, that every one of all Orders do diligently and holily keep the Religion of his Office; eſpecially the Servants of God, Biſhops, and Abbots, and Monks, and Nuns, and Canons do bend their minds to their duty, and live according to their Rule; That they often call upon Chriſt day and night, and pray for all Chriſtian folk. And we pray, and teach all Gods Miniſters, eſpecially Prieſts, as they obey God, they favor chaſtity, ſo that they may ſhun Gods wrath, and avoid the flames of hell. And certainly they know it is not lawful for them to ſatisfie their luſt to accompany any woman: And they who will abſtain from fleſh, and nouriſh chaſtity, ſhall obtain Gods mercy, and with equal right enjoy a heap of earthly honor, as though he were a man of free condition. * *And that every Chriſtian*

* Although this be in the Saxon in this Chapter, yet both Mr. *Lambert* and *Wheelock* in their tranſlations have placed it in the 7. Chap.

Christian man, for the fear of God, does restrain the unlawful lusts of the flesh, and obey the commands of Gods law.

Of forbidden Matrimony. Cap. 7.

And we teach, and pray, and command on Gods name, that no Christian man whatsoever does marry within the sixth degree of his kindred, nor does take to wife the widow of his kinsman who was within the sixth degree, nor that he marries any within the like degree to her who was his wife; nor his Gossip, nor a Vestal Nun, nor one Repudiate, let no Christian man marry. And lastly, he who shall carefully imbrace Gods laws, and study to keep his soul from the flames of hell, let him not be a follower of Harlots, nor have more wives then one, and that she be his bewedded wife.

Of paying Tithes. 8.

And let every one, every year, pay justly his dues to God: That is, Plough-alms, fifteen nights after *Easter*; the Tithes of young living creatures, at *Whitsuntide*; and the Tithes of the Fruits of the earth, at the feast of *All Saints*. But if any one will not pay his Tithes after the manner aforesaid, *viz.* of the tenth acre of Plough-land, then let the Kings Sheriff, the Bishop, the Lord of the Soil, and the Priest of the Church meet, and no thank to him, restore the tenth part to the Church to which it was due, and leave the ninth to him: As concerning the other eight parts, let the Lord of the Soil have one half, and the Bishop the other, be he the Kings man, or any Nobleman's.

Of Peter-pence. 9.

And the money due to *Rome*, is to be paid upon the feast of S. *Peter*: He who shall not pay it, shall pay that penny to the Bishop, and thirty pence beside, and two hundred and twenty shillings to the King.

Of First-fruits. 10.

Let the First-fruits be paid at the feast of S. *Martin*; and if a man shall forbear, he shall give them elevenfold to the Bishop, and two hundred and twenty shillings to the King.

Of the Tithes belonging to the Church of a Freeman. 11.

If a Freeman hath a Church upon his Demesnes, which hath a Church-yard, then it shall be in his power to confer upon his Church the third part of his Tithes: But if there be no Burying-place belonging to the Church, then may the Lord of the Soil give the Priest so much of the nine other parts as shall seem good to him; and let the Hearth-money be first paid to the Church by every Freeman.

Of money for Lights. 12.

And let money be given to Lights, thrice every year: First upon the feast of *Easter*, let one halfpenniworth of wax be imposed upon every Hide of land; and so much again upon the famous feast of *All Saints*; and the like to be done upon the feast of the Purification of S. *Mary*.

Of

14. *Of the money called* Symbolum animæ, *and of Burial.*

And it is meet, that after a grave be opened, the Burial-money be forthwith told out. And if a man bury one dead, out of the bounds of his pariſh, yet ſhall the Burial-money notwithſtanding be reſtored to the Church to which of right it did belong.

15. *Of Gods right, in obſerving Feſtivals and Faſts.*

And let every one defend all Gods right, all he can: Let him celebrate Feſtival and Faſting-days; alſo Sunday keep a feaſt from Saturday noon to Munday light, and let every man abſtain from bodily labor.

16. *Of Sunday.*

And we expreſly forbid any Market to be kept, or any Convention of the people to be made upon a Sunday, unleſs there be urgent neceſſity: And alſo let every man upon a Holiday abſtain from hunting, and all bodily labour.

17. *Of Faſts.*

And we command that every man obſerve all theſe Faſts, whether of the Ember-weeks, or Lent, or any other Faſt, with all godlineſs; And to faſt all the days of S. *Mary*, and the feaſts of all the Apoſtles; but of *Philip* and *James* we command not to be kept Faſt, becauſe of the Feſtivity of *Eaſter*: And upon every Friday, if it be not a Feſtival, faſt. And let no man faſt from *Eaſter* until *Whitſuntide*, or from *Chriſtmas*, until the *Octabs* of *Epiphany*, unleſs he were willing, or injoined by the Prieſt.

18. *Of the times of Vacation.*

And we forbid the Ordal upon all Feſtivals, Ember weeks, and other right Faſting days, and all Pleadings at Law from the feaſt of the Anniverſary of the coming of our Lord, until eight days after *Epiphany*; and from *Septuageſima*, until the fifteenth day after *Eaſter*. And indeed, the wiſe men have ordained, that the Annual feaſts of S. *Edward* and S. *Dunſtan* be religiouſly obſerved of the Engliſhmen upon the 15. Kalends of *April*, and 15. Kalends of *June*. Let every Chriſtian man, upon theſe ſolemn feaſts, as is meet, be peaceable and free from all fraud and malice: And if any one did owe any thing to another, whether in the nature of pledge, or compenſation, let him either repay it before theſe days, or ſoon after.

An Exhortation to Confeſſion and Penance.

19. And we command for Gods love, that all Chriſtian men underſtand thoſe things which are neceſſary for the good of their ſouls: For, a time will come, when we would rather have obeyed Gods will, when we had time given us, then to have enjoyed all the goods which all men enjoyed in the world. Certainly a reward will be given to every one of us, according to the deeds of every one: Then woe be to the miſerable, which in their life deſerved the eternal puniſhments of hell. And therefore, that we may diligently avoid our miſdeeds, let us ingenuouſly confeſs our ſins, and abſtain from all wickedneſs for the future, and duly compenſate, and command thoſe Laws to others, which ſhall not be grievous to obey. This is right

right Judgment, and with God acceptable; and he is truly bleſſed, which by rule ſhall judge. For, Almighty God, the Creator of all things, created us all, and with an ineſtimable price redeemed us, *viz.* with his own life poured out upon us.

An exhortation to the Euchariſt, and honeſt life. Cap. 19.

And let every Chriſtian man do all thoſe things which conduce to his health, and be very careful of his Chriſtendom. And he which will do all things neceſſary for the good of his ſoul, which all ought to do, muſt underſtand, that thrice at leaſt every year he muſt prepare himſelf to receive the Euchariſt; and he who truſts that he ſhall be acceptable, muſt rightly obſerve all his words and deeds, and religiouſly keep his oath and faith given, and do juſtice all he can, in all parts of our Dominion, and diligently follow Gods juſtice in word and deed. So then at length all of us ſhall abundantly obtain Gods mercy.

Of Fealty to the Lord. 20.

Further we will follow what we teach others, always to be faithful to our Lord, and defend his honor with all our might, and obey his will: For, whatſoever we ſhall do to our Lord in right and vertue, will be to our ſelf a great eaſe. For in this thing, God the Creator of all things, and Lord, will be faithful to us. It is therefore very meet, that Lords govern their ſervants with reaſon.

To worſhip God from the heart, and faith. 21.

And we greatly admoniſh all Chriſtian men, that inwardly from their heart they love God, and that they ſtedfaſtly hold Chriſtian religion, and devoutly obey Gods teachers, and diligently learn Gods law, and contemplate it, and often and much follow it, to the profit of themſelves.

That men throughly learn the Lords Prayer, and Apoſtles Creed. 22.

And we teach, that every Chriſtian man ſo learn, that at leaſt he throughly underſtand the right Faith, the *Pater noſter*, and *Apoſtles Creed*. For, with one of theſe every Chriſtian man does pray to God; and with the other profeſs a right faith to him. Chriſt himſelf firſt ſang the Lords Prayer, and taught it his Diſciples: And that godly Prayer is made up of ſeven petitions, which whoſoever ſhall not counterfeitly, but from his heart ſpeak, ſpeaks with God himſelf of all thoſe things which are neceſſary to this life, and the life to come. How then can any man with any reaſon pray to God from his ſoul, unleſs he believes on God, and inwardly hath a right faith? For, he that will not learn theſe things, after death ſhall neither partake of any part of reſt with Chriſtians, neither alive ſhall he be admitted to the Euchariſt, nor laſtly ſhall be deemed worthy the name of a Chriſtian man. Nay, it ſhall not be lawful for him to anſwer for any one in Baptiſm, or before the Biſhop in Confirmation, unleſs he ſhall learn theſe and throughly con them.

That deadly ſins be avoided. 23.

And we teach, that every man does alwaies, and carefully avoid all dangerous and deadly ſins; and if he by chance offend by the impulſe of the Devil, let him make amends therefore, by the inſtruction of the Prieſt.

Cap. 24.

And among theſe, Avoutery.

And we teach, that every one as long as he lives, does avoid all Avoutry and forbidden luſt, and breach of wedlock.

25. *That men be fearful of the dreadful Judgment.*

And we teach, that the fear of God may alwaies ſo ſink into the ſouls of men, that days and nights they may fear puniſhments for their ſins, and dread the day of Judgment, and be affrighted for the torments of Hell, continually think of the laſt day of their life.

26. *That Biſhops and Prieſts faithfully perform their duties.*

Truly, Biſhops are Gods proclaimers, and Interpreters of Gods law: It is their part openly to ſet forth the benefit of Divine things, and expoſe themſelves by well living an example to imitate; and they who will, may give their ears and mind to theſe things. He is a bad Keeper, who will not defend his Flock at leaſt with his voice, if he can do no more, againſt him who ſhall go about to ſpoil it. And there is one moſt hurtful Devil of all other, who alwaies mightily endeavors to bring deſtruction upon the ſouls of men. Wherefore it will be expedient that Paſtors watch, ward, and proclaim to the people, what dangers hang over them from their mighty adverſaries, and that they be provided againſt them. We call Biſhops and Prieſts, Paſtors, to whom it belongs by teaching and doctrine, to look to, and defend the flock of the Lord, leſt at any time the Wolf enflamed by rage and wickedneſs, ſhould bite and tear them with his teeth. But yet if any one will ſhut his ears againſt the Divine precepts and admonitions, be it between God and himſelf, and let the Name of God be alwaies praiſed; To whom be all praiſe, glory and honor, world without end, *Amen.*

Among the Humane Laws (ſo ſtiled) of *Canutus*, I find theſe inſerted.

4. *Of Caſting out of Witches and Sorcerers.*

And we command, that this our Dition be every where purged and cleanſed from all deadly wickedneſs: And if Witches, Fortune-tellers, ſecret Murderers, or any Common Bawds, be any where taken in our Kingdom, let them be baniſhed out of the confines of it; or in the Kingdom, (unleſs they become of a better mind, and mend their manners) let them be put to a vile death. Who will not obey right, and Divine and Humane Laws (unleſs they repent, and make abundant ſatisfaction) be commanded to be baniſhed, &c.

5. *Of aboliſhing the Superſtition of the Gentiles.*

We plainly forbid all Heatheniſh Adoration. It is barbarous Worſhip, whether any one worſhip Idols, (*viz.* the Gods of the Gentiles) the Sun, the Moon, Fire, or Running water, Fountains, or Stones, or any kind of Trees or Wood, or hath obſerved the ſuperſtition of Witches, &c.

Although at any time no leave is given for Injuſtice, yet without doubt Iniquity is moſt forbidden upon Holy daies, and in Holy places; and by how much a man is richer, and placed in dignity above other men, by ſo much more abundantly ſhall he make amends to God and men for wrong done.

And

And how he ſhall compenſate to God, we refer to the precepts out of Scripture, and to Men, as is ſet down in Humane laws.

Of killing a Miniſter of the Altar. Cap. 36.

If any of them who ſerve at the Altar, be killed of any man, let that man be excluded out of the patronage of all Divine and Humane laws; unleſs together with baniſhment, he make abundant ſatisfaction for that wickedneſs, and give ſatisfaction to the Kindred of him who was killed; or at leaſt, together with ſufficient men who may be ſworne, waſh out all ſuſpition of the crime. And this ſatisfaction ought to be made to God and men within thirty daies, upon the penalty of the forfeiture of all he hath.

Vide Para. 9. of the antecedent Chap. 37.
Vide Para. 10. of the antecedent Chap. 38.

Of Arreſting or beating one in Orders. 39.

39. If any one ſhall impriſon, beat, or uſe a man bound to God ignominiouſly, let him make amends as is meet: Let him pay to the Biſhop for the dignity of his order, a mulct by the name of *Pegoobote*; and to the Lord or King full ſatisfaction for breach of the Peace; or at leaſt waſh out the crime with a full and perfect excuſe.

* Cleanſing the Altar.

Of a man Ordained guilty of Death. 40.

If any one in Holy Orders be guilty of Death, let him be taken and held to what puniſhment ſhall be inflicted upon him by the Biſhop.

Of a man condemned, who deſires a Confeſſor. 41.

If any man condemned to death, freely deſires a Confeſſor to confeſs his ſins, let it be granted him: But if any one ſhall deny it him, let him pay the King an hundred and twenty ſhillings, or at leaſt purge himſelf from the crime, and have five men joined with him, and be himſelf the ſixth.

Of obſerving Sunday and Feſtivals. 42.

No man, as much as poſſible can be, condemned for any crime, unleſs he did reſiſt or flee, ſhall be put to death upon a Sunday, but ſhall be kept bound until the feaſt be paſſed. If any Freeman work upon a Holy day, then let him ſtand in the pillory, and give ſatisfaction to God, as it ſhall be commanded him: If a Servant do any work, let him be beaten, or be put into fear of beating for it. If a Maſter command his Servant unwilling to work upon a Feſtival, let him be fined to his Servant, and the Servant free for the time to come: And if the Maſter be a *Dane*, let him pay the mulct of the Law-breaking; An *Engliſhman* ſhall be fined according to the nature of the fact, or excuſe it.

That men obſerve Lent and Feſtivals. 44.

If a man break *Lent* by Fighting, Marriage, Rapine, or by committing any other wickedneſs, let his compenſation be double. The like Law is, according to the nature of the fact, if any of theſe be committed upon any ſolemn Feſtival. And if any one will purge, let him bring a threefold purgation.

Cap. 45. *Of detaining the Duties of the Church by force.*

If a *Dane* ſhall reſiſt by force any one deſiring the rights or duties belonging to God, let him be puniſhed for breach of the Law; An *Engliſhman* ſhall be aſſeſſed in a deeper mulct, unleſs he purge himſelf with eleven men, and be himſelf the twelfth man. But if he wound any man, let him make amends and pay a grievous mulct to the Lord, and let his hands be bored through, unleſs he ſhall redeem them from the Biſhop. But if he killed any one, let him be outlawed, and purſued by all Magiſtrates with all the harm that they lawfully may: And if afterward that man ſo purſued be killed, let it be confirmed, and unpuniſhed, and no further enquired after.

46. *Of a man breaking Holy Order.*

If any man violate his Order or Rule of living, let him be fined according to the dignity of his Order, or price of his head, for puniſhment of the breach of the Law, or forfeit all he hath.

63. *Of Repairing the Church.*

All men by right ought to uſe their endeavor to repair the Church.

64. *Of him who keeps a man Excommunicated, or Outlawed.*

If any man ſhall unjuſtly keep any Fugitive from Gods law, let him be reſtored to right, and forgiven thoſe things which did appertain to him, and let him pay to the King the price of his head: But if any one ſhall keep and hold any other excluded from the protection of Divine or Humane laws, he ſhall endanger himſelf, and all he hath.

The Concluſion of Canutus *his Laws.*

Now I beſeech all men, and in the name of Almighty God command every man, that they be truly from their heart converted to God, and with all care and diligence ſearch out what is to be followed, and what avoided. And truly it does much conduce to our ſouls health, that we love God, and hold his precepts and admonitions, and hear his word by his teachers: For we ſhall bring forth theſe to be ſeen in that day, wherein God ſhall come to give judgment upon all men according to thoſe things they did whilſt they lived. And then at length ſhall that bleſſed Keeper bring the Flock committed to his charge, into the Heavenly kingdom, and the joys of Angels, for thoſe things which he had done in his life; and alſo that bleſſed Flock follow that Paſtor, who hath wreathed it out of the hands of the Devil, and give the gain to God. And further we ſtudy, that all men may ſo agree to pleaſe God, that for the time to come we may avoid the flames of Hell-fire. The Interpreters of Gods Law ought often to preach the benefit of Divine things; and indeed it is their function, and does much benefit all men to ſalvation: And all men ought with a good mind diligently to hear, and have Gods admonitions always fixed in their ſoul for their profit. And laſtly, that every one, by his words and deeds all he can, holily and thankfully do well, to the greater amplitude and glory of God his Lord; for ſo at length we ſhall abundantly all of us obtain Gods mercy. Let the name of the Lord be praiſed, to whom be laud, honor and glory for ever. God Almighty be merciful to us all, according to his will. *Amen.*

Eccle-

Ecclesiastical Laws made by Good King Edovard,

Who began to reign Anno Salutis 1042.

Of Clerks, and their Possessions. *Cap.* 2.

LEt every Clerk, and also Scholars, and all their goods and possessions wheresoever they be, enjoy the peace of God and his Church.

Of the Times and Dayes of the Kings Peace. 3.

From the coming of our Lord, until eight days after Epiphany, let the peace of God and his holy Church be all over our Kingdom; also from *Septuagesima*, until eight days after Easter; also from the Ascension of our Lord, until eight days after Whitsuntide; also all the days in Ember-weeks; also upon every Saturday from the ninth hour, and all the day following until Munday; also upon the Vigils of S. *Mary*, S. *Michael*, S. *John* the Baptist, of all the Apostles and Saints whose solemnities are celebrated by Priests upon Sunday; and All Saints upon the Kalends of *November*, alwaies from the ninth houre of the Vigil, and the following Solemnity. Also in Parishes in which the Dedication is observed; also in the Parishes of Churches where the proper Feast of the Saint is celebrated. And if any one will come devoutly to the celebration of the Saint, he shall enjoy peace going, staying and returning. Also to all Christians going to Church to pray, be peace in going and returning. In like manner at Dedications, Synods, to men coming to Chapters, whether they be summoned, or of themselves have any thing to do, be highest peace. Also if any man excommunicated, flee to the Bishop for absolution, let him freely, in going and returning, enjoy the peace of God and his Church. But if any man shall do otherwise with him, let the Bishop do justice therefore: But if any arrogant man will not amend for the justice of the Bishop, the Bishop may make the matter known to the King; and the King may constrain the malefactor to make him amends whom he hath outlawed, *viz.* first to the Bishop, then to him; and so they shall be two swords, and the sword shall help the sword.

Of the Justice of the Church. 4.

Whereſoever the Kings Justice is, or before whomsoever Pleas are holden, if one sent of the Bishops coming there, opens the cause of the holy Church, it shall first be determined: For it is just that God be every where honored before others.

Of all Tenents of the Church. 5.

Whosoever shall hold any thing of the Church, or have a mansion upon the ground of the Church, shall not be compelled to hold Pleas out of the Ecclesiastical Courts, although he be outlawed, unless (which God forbid) he shall have default of right in the Court Ecclesiastical.

Of Guilty men fleeing to the Church. 6.

Whosoever, guilty or nocent, shall flee to the Church for protection, after that he hath gotten the entrance of the Church, let him not be apprehended

prehended of any man pursuing him, unless by the Bishop or his Minister; but if in fleeing he enters into the House or Court of any Priest, let him enjoy the same security and peace he should have had at the Church, so as the house of the Priest and his Court stood upon the ground of the Church. Here, if the thief or stealer be, what he hath evil gotten, (if it be at hand) let him restore; but if he hath wholly consumed it, and hath wherewith to restore of his own, let him make full satisfaction for the damage he brought to him who was damnified. But if, as is usual, the Thief hath not wherewith to do it, and by chance hath often gone out of the Church, and Priests houses, having restored the thing taken away, let him abjure the Province, and not return; and if by chance he shall return, let no man presume to entertain him, unless he have leave from the King.

Of breaking the Peace of the Church.

Cap. 7. If any one shall violently infringe the Peace of the Church, the Justice belongs to the Bishops; but if one guilty in avoiding their Judgement, or arrogantly contemning it, shall despise it, let the complaint thereof be brought to the King within forty days, and let the Kings Justice make him give Security and Pledges (if he can get them) until he first give God, afterward the Church, satisfaction. But if within one and thirty days, either by his friends or acquaintance, or by the Justice of the King, he cannot be found out, the King shall Outlaw him by the word of his own mouth: *i. e.* he shall be excluded out of all protection of the King: But if after he shall be found, and can be retained, let him be restored alive to the King, or his head if he shall defend himself, *Lupinum enim gerit caput*, which in English is called pulpe heopos. This is the common and general Law concerning all men Outlawed.

8. *Of the Tithes to be restored to the Church, of Sheep and Hoggs.*

The tenth sheaf of all kinde of corn is due to God, and therefore to be restored to God: And if any one hath a company of Mares, let him restore the tenth colt to God; he who hath but one or two, for every single colt, one single peny: In like maner, who hath many Cowes, the tenth calf; who hath but one or two, for every calf one single halfpeny: and who make Cheese, give to God the tenth; but if he make none, milk the tenth day. In like maner the tenth Lamb, the tenth Fleece, the tenth Cheese, the tenth Butter, and the tenth Hogg.

Of Bees.

In some these two Chapters are joyned. In like maner the tenth of the profit of Bees; as also of under-Wood, of Meadow, and Waters, and Mills, Parks, Warrens, Fishponds, tender Sprouts, and Gardens, and Merchandize, and all other things which God shall give, the tenth part is to be restored to him who gave the nine parts together with the tenth; who shall have detained it, let him be compelled to restitution by the Justice of the Bishop and King (if need be.) For these things St. *Augustine* hath Preached, and are granted by the King, Barons, and People; but afterwards by the instinct of the Devil many have detained it, and Priests careless of growing rich, did not care to take pains to get them, because they had sufficient means of living: For in many places now there are three or four Churches, where then there was but onely one, and so they began to be diminished.

of

Of them who are judged to be brought to Judgment or Water, by the Justice of the King. Cap. 9.

In that day wherein Judgment ought to be done, let the Minister of the Bishop and his Clerks come thither, and in like manner the Justice of the King, with Legal men of that Province, who may see and hear that all things be rightly done; and whom the Lord by his mercy will save, let them be quit and freely depart; and whom the iniquity of the fault the Lord shall not condemn, let the Justice of the King do justice upon them. But the Barons who have their jurisdiction of their men, let them see that they do so concerning them, as they incur not displeasure with God, and offend not the King. And if a Suit does arise concerning men of other Baronies in their Courts, let the Justice of the King be present, because without it the Suit cannot be determined. If any of the Barons hath not Justice in the Hundred where the Plea shall be holden, it shall be determined at the next Church where the Judgment of the King shall be, saving the Right of those Barons.

Of Romescot. 10.

Every one who shall have Thirty pence of current money in his house, of his own property, (by the Law of *England*) shall pay a Peter-penny; and by the Law of the *Danes*, half a Mark. But that penny ought to be summoned upon the Feasts of the Apostles *Peter* and *Paul*, and collected at the Feast which is called *To the Bonds*, so that it be not detained beyond that day: If any one shall longer detain it, let complaint be brought to the justice of the King, because this penny is the Alms of the King, and it is justice he cause this penny to be restored, and the forfeiture of the Bishop and King. But if a man hath more houses, let him restore the Peter-penny for that wherein he resides, upon the feast of *Peter* and *Paul* the Apostles.

Of the Office of the King, and of the Right and Appendixes of the Crown of the Kingdom of Britain. 17.

And the King, because he is the Vicar of the highest King, and to this purpose ordained, that he may both govern and rule the terrene kingdom and people of the Lord, and above all things the holy Church, and that he defend the same from wrong-doers, and destroy and root out workers of mischief.

Besides these, Sir *Ed. Coke* in *Cawdries* Case, instances in King *Kenulph*; for that King *Kenulph* by his Letters Patents, with the consent and councel of his Bishops and Senators of his Kingdom, did give to the Monastery of *Abingdon* in the County of *Berks*, and to one *Ruchnius* then Abbot of the said Monastery, &c. a certain portion of his Country, &c. and that the said *Ruchnius* &c. should be ever free from Ecclesiastical right or jurisdiction, and that the Inhabiters of it from thenceforth be kept under the yoke of no Bishop or their Officials, but in all events of things and discussions of causes they be subject to the Decree of the Abbot of the Monastery aforesaid. And that this Charter was above * 850 years since, which was in the year 755. and after confirmed by *Edwin* of *Britain*, King and Monarch of Englishmen; and this Grant did continue until the dissolution of the Abby by *Henry* the 8.

*Counting to the time Sir Ed. Coke wrote.

So that the Kings of this Nation have not only of antient time been Nursing fathers to Gods Church, and have exercised their Regal power over the persons of all their Subjects in all cases; but have even dispensed with, and conferred Episcopal jurisdiction. But this was only matter of fact, and

and done but only in one place; nor was it ever established by a Law, before the Statute of *Lollard*, and by *Henry* the Eight, and the First of *Eliz.* Yet it was afterward (as shall appear in the next Chap.) used by divers Kings, and often adjudged by the Judges before *Henry* the Eighth.

Chap. III.

Ecclesiastical Laws made by William *the First, who began to reign in the year of Christ* 1067.

Introduction. That Nations and Kingdoms have their origination from God, we have already in its proper place asserted. And that these Kingdoms thus created by God, have periods, alterations, and conversions set by him, which cannot be foreseen or prevented by man, is certainly as cleer and evident as the former; and often owned by God himself in Sacred Writ, as well over his own people, as others. But that therefore any man or men should therefore endeavour to make alterations in Kingdoms, is like to a man, who because all men naturally die, thinks he may kill any man, and father the fact upon God. And if God, even over his own peculiar people, did for the sins of the Kings and people, especially the Israelites, so often convert the line of the Kings; then can it not in reason be expected, in this Iron and much more sinful Age, that God should every where continue a fixt and certain succession of Kings according to the ordinary course of Nature, *viz.* Primogeniture: But that therefore the Pope or any other creature, may arrogate to themselves a right or power superior to the Law of Nature, is no less absurd, then that a Son may kill his Father, because all Fathers have periods set by Nature, which they cannot pass. And that all Subjects do by birth owe a natural subjection to rightful Princes in whose dominion they were born, which relations can never be dissolved but by God himself, we have in their proper places demonstrated: Yet may the exercise of this power be suspended, so long as such Subjects come into the power of other Princes, whether it be by conquest or otherwise, and do owe them a temporary obedience, so long as they continue there; and their posterity born in their dominions, owe such Princes a natural obedience, which can never be dissolved. And also that since there is no other Judge under Heaven to decide the controversie of Princes, but their swords, (which can never be alledged by any Subjects who have Laws to decide their differences) such decision is good, as to the exercise of any Princes power over all them who fall under it, and all Subjects born in such exercise of power or dominion, become natural Subjects to any Prince who by conquest acquires the dominion of another; we have also demonstrated in its proper place. Yet whether it were of old, that Popes did arrogate to themselves this right of deposing Temporal Princes, or debarring them of their right, which about this time was frequently asserted by, and practised by the Popes, and which Pope *Alexander* was pleased to confer upon the Conqueror, against all Right and Law, to the manifest prejudice of *Eadgar Athelin*) let us see the Epistle of S. *Eleutherius* to King *Lucius*, as it is cited in *chap.* 17. of S. *Edwards* Laws.

In

In the year from the passion of Christ, 169. or 156. our Lord *Elentherius* the Pope, wrote to *Lucius* King of *Britain*, at the Petition of the King and Peers of the Kingdom of *Britain*. *You have required of us, that the* Roman *Laws and of* Cesar *be transmitted to you, which you would use in the Kingdom of* Britain. *We can always reprove the* Roman *Laws, and those of* Cesar, *but not at all the Law of God: For ye have by Gods mercy of late received into your Kingdom of* Britain *the Law and Faith of Christ, you have of your self in your Kingdom sufficient Authority, from whence through Gods grace, by the advice of your Kingdom, to make a Law, and by it; through Gods patience, you shall rule the Kingdom of* Britain. *And you are the Vicar of God in your Kingdom, according to the Kingly Prophet,* The earth is the Lords, and the fulness of all the world, and all who inhabit therein: *And again according to the Kingly Prophet,* Thou hast loved Justice, and hated iniquity, and therefore thy God hath anointed thee with oyl of gladness above thy fellows. *And again according to the Kingly Prophet,* God is thy Judgement, *&c. Therefore neither the Judgement nor Justice of* Cesar, *for they are sons of the King, Christian Nations, and people of the Kingdom, who live under your Protection and Peace, and Reign, and are according to the Gospel,* Even as a hen gathereth her chickens under her wings, &c. *But they are Nations and your People of the Kingdom of* Britain, *and who divided, you ought to congregate, recall, nourish, hold with your hand, protect, and rule into one for concord and peace, and to the Faith, and to the Law of Christ and his holy Church, and always to defend it from evil doers, and malitious men, and its enemies.* Wo to the Kingdom whose King is a boy, and whose Princes eat together in the morning: *I Do not call a King because of his small and tender age, but because of his folly and iniquity, and rage, according to the Prophet King,* Men of blood and deceitful, shall not live out half their days, &c. *By eating, we understand the Pallat, by the Pallat, Luxury, by Luxury, all things filthy and evil, according to King* Solomon, Wisdom shall not enter into the soul of the evil doer, nor shall dwell in a body subject to sins. *Rex dicitur à Regendo, non à Regno: A King thou shalt be so long as thou rulest well, which thing if thou wilt not do, the name of King shall not remain in thee, and thou shalt lose the name of King, which God forbid. God Almighty grant to you so to Rule your Kingdom of* Britain, *that you may Reign with him for ever, whose Vicar you are, in the Kingdom aforesaid, who with the Father and Son,* &c.

Of the Right and Ecclesiastical freedom of Asylum's, Cap. 1.

That is to say, Peace to the holy Church. Of whatsoever forfeiture any one is guilty this time, and he can come to the holy Church, let him have peace of life and member; and if any one hath set his hand against that which the Mother-Church shall require, whether it be an Abby, or Church of Religion, let him restore that which he hath taken out, and one hundred shillings for forfeiture; and concerning the Mother-Parish-Church twenty shillings; and concerning a Chappel ten shillings. And according to the peace of the King, in the Laws of the *Mercians*, he shall make amends with one hundred shillings; accordingly as of *Heinefare*, and *prepensed* lying in wait. *En perchenelae.*

Of Peter-pence, or Romescot. Cap. 18.

A Freeman who hath Field-Beasts valued at thirty pence, shall pay a *Peter*-peny. For four pence which the Lord shall give, all his Border-

ers, and his Boner, and his Servants be quit. A Burger who hath of his proper goods ſo much as ſhall be eſteemed half a Mark, let him pay a Peter-peny. He who in the Law of the *Danes* is a Free-man, and hath field-cattel which are valued worth half a Mark in ſilver, ought to give a peny to St. *Peter*, and for that peny ſhall all be quit who reſide in his Demains.

Cap. 20. *Of them who do not pay the* Roman *Tribute, or of St.* Peter.

Who ſhall deny the peny of St. *Peter*, the peny let him pay by the Juſtice of the Church, and thirty pence forfeiture, and if he will be impleaded concerning it by the Juſtice of the King, let him forfeit to the Biſhop thirty pence, and forty ſhillings to the King.

[1.] *Of Religion and the publick Peace.*

First of all we Ordain above all things, That one God be worſhipped all over our Kingdom, and the one Faith of Chriſt be always kept inviolate, &c.

The Laws are Tranſlated out of the Original, ſet forth by Mr. Abraham Whelock *in his Appendix to the Hiſtory of* Bede, *from page* 150. *to* 107.

Sir *Ed. Coke* in *Caudrys* Caſe, cites a *quare Impedit*, 7 *Ed.* 3. *tit.* 19. where it is agreed that no man can make an appropriation of any Church having cure of ſouls, being a thing Eccleſiaſtical, and to be made by ſome perſon Eccleſiaſtical, but he that hath Eccleſiaſtical Juriſdiction; but *William* the firſt, of himſelf, without any other (as King of *England*) made appropriation of Churches with cure to Eccleſiaſtical perſons, wherefore it does follow he had Eccleſiaſtical Juriſdiction. *Here is nothing but* argumentum à facto ad jus, *and a man may as well infer, that* Saul, Jeroboam, *and* Azariah *did offer ſacrifice and burn incenſe, and therefore they had Sacerdotal power in them; or that King* John *did give the Crown, and received* it again from him, and therefore the Crown of *England* is *holden of the Pope.*

Eccleſiaſtical Laws made by *Henry* the firſt,

Who began to Reign in the year of Chriſt 1100.

Præm. THeſe at laſt are the happy joys of the long wiſhed for peace and liberty by which the glorious *Ceſar Henry* doth ſhine forth to his whole kingdom, in Divine and Secular Laws, written Inſtitutes and Exhibitions of good Works, Moderate, Juſt, Valiant, Prudent, whom God may make to command with happy auſpices, and healthful proſperity of body and minde, with his famous wife *Maud* the ſecond, and their children for ever, and the everlaſting peace of this Nation.

[1.] *His Epiſtle to all his Leigmen.*

Henry by the Grace of God King of *Engliſhmen*, to all Barons, and his Leigmen, *French, Engliſh*, health. Know that I by Gods mercy and the Common Counſel [and conſent] of the Barons of the Kingdom of *England*, am Crowned King of the Kingdom aforeſaid; and becauſe the Kingdom

was

was oppreſſed by unjaſt exactions, I, in reſpect of God, and the love which I have towards you [all] firſt of all make the Church of God free, ſo that I will neither ſell, nor let to farm, nor after the death of an Archbiſhop or Biſhop, or Abbot, will take any thing of the Demeſns of the Church, or her men, until the ſucceſſor be come in, &c.

Of the propriety of Cauſes.

Cap. 5.

In all Cauſes Eccleſiaſtical and Secular, legally, and in order to be handled, ſome are Accuſers, ſome Defenders, ſome are Witneſſes, ſome are Judges: In every diſcuſſion of honeſty, fitting men are to be joyned together, and that without any exaction, until the quality of the Cauſes, and the intention of the Accuſed, the manner of Witneſſes, and election of Judges be weighed with upright ſcrutiny: Let there be no foreign Judgements, nor celebrated by their improper Judge in place or time, nor in a doubtful caſe, or the party accuſed being abſent, the ſentence being pronounced *notandum*, that for all, if the accuſed had competent warning, and lawful leave of anſwering and defending, he be not denied or impleaded, or outlawed, or circumvented by ſome ſtealth, or judged by deceit: If he be ſatisfied in the Witneſſes, Judges, and Perſons. If he conſent to the Judges, or hurt, or contradict. It is not altogether ſo in Eccleſiaſtical buſineſs as Secular: in Secular buſineſs, after that any is called, ſhall come, and begin to plead in the Court, it is not lawful to go back before the Cauſe be determined, although they ſhall agree; but in Eccleſiaſtical buſineſs it is lawful to go back in the Cauſe aforeſaid. If a man ſuſpect a Judge, or think himſelf oppreſſed; ſurely Judges ought not to be ſo, *niſi quos impetitus Elegerit*: Neither may any one be heard, or give judgement before that they be choſen, and he who refuſes to conſent to the elected, let no man communicate with him, until he obey; but if in judgement there ariſes diſſention among the parties, of which a ſtrife comes forth, let the ſentence of the more prevail. It is Enacted in the Cauſe of Faith, or of any Eccleſtaſtical Order, he ought to judge, who neither takes reward, nor is of another Law, and will do nothing without an accuſer: For God and our Lord Jeſus Chriſt did know *Judas* to be a Thief; but becauſe he was not accuſed, therefore he was not rejected, and whatſoever he acted among the Apoſtles, for the dignity of his Office, remained firm: As alſo Clerks ought not to receive Laiks Accuſers, ſo ought not Laicks to receive Clerks to be Accuſers of Clerks in their Accuſations and Informations; and Witneſſes ought to be legitimate, and preſent without any infamy or ſuſpition, or manifeſt ſpot, becauſe they cannot rightly accuſe Prieſts, who cannot be Prieſts, nor of their Order; nor is it needful to Judge a man before he hath had lawful Accuſers preſent, and accepts a place of defence to waſh out his crimes. And it is our pleaſure, as often as many crimes are objected to Clerks by Accuſers, and they cannot make good one of the firſt of which they are accuſed, they ſhall not be admitted to the reſt. And a Biſhop ſhall not be condemned, unleſs by ſeventy two Witneſſes, nor the Archbiſhop be judged of any. A Presbyter-Cardinal ſhall not be condemned, unleſs by forty four Witneſſes: a Deacon-Cardinal ſhall not be condemned, unleſs by twenty ſix Witneſſes, nor a Sub-Deacon under ſeven; nor let the greater deſpair for the force of the leſſer men; and there always the Cauſe may be Pleaded, where the Crime is admitted:

Note the preheminence of a Biſhop in *England* at this time, above a Cardinal.

admitted. If a man stricken, will, he may plead his cause before his Judge; and if he will not before his Judge, he may hold his peace; and as for men stricken, as often as they desire respit, let it be granted: And every man which objects a crime, let him write that he will prove it; and if before he be changed, he will not follow, he is convinced, no crime is to be accounted: But if he will prosecute, if he shall not prove what he objects, let him undergo the penalty which he brought; the Apostle says, *Against a Presbyter a writing is not to be received without two or three approved witnesses*; how much more against Bishops, if these things be observed of Presbyters, and other faithful men? If any one will accuse any of the Clerks in an accusation of Fornication, according to the precept of St. *Paul*, two or three testimonies are required from him; but if he cannot prove what he saith, by the testimonies given, the accuser may take the excommunication of the accused; and let no man believe him concerning himself, declaring upon another crime; but a confession extorted by fear or fraud, is invalid. Let a Priest beware, that whosoever confesses his sins to him, he tell no body of them, because he confesseth to him, not to his neighbors, or strangers; which thing if he do, let it be set down, and repent all the days of his life ignobly in Pilgrimage. And if at any time a Bishop says any man hath confessed to him any proper crime, and he deny it, let not the Bishop think it does not belong to his injury, that he is not believed for himself alone, and if for scruple of his conscience, he says he will not communicate to him; oftentimes good men are silent, and suffer the ill things which they have known, because they are forsaken in their documents, and cannot allow of their Judges; for although they are true, yet are they not believed of the the Judge, unless they be proved by certain appearances: But we cannot at all forbid men from the Communion, although this Prohibition be not mortal, but medicinal, unless men confess of their own accord, and be convicted by judgement: From hence it is such a man is to be named, as the Apostle says, who confesses, or is convinced by ordinary judgement; but if by judgement it cannot be taken away, let it rather be tolerated, lest some man in perversly avoyding ill men departing from the Church, should go before them to Hell: The Communion does not defile any man by partaking the Sacraments, but the confession of their deeds: other mens sins hurt not him who lives well in the Church. Of habit and clothing we read nothing commanded by God; what things are for pomp, are forbidden: And if you shall ask, Canst thou not have an humble heart in a proud dressing (as *Hester*) God not onely in his anger, but also pitty, overthrows sinners.

And they are overthrown two ways: either as the *Sodomites*, where the men were punished for their sins; or as the *Ninivites*, where the very sins of the men were punished and destroyed; and all men are alike to be loved, but you cannot alike profit with all; these are rather to be advised with, who for the opportunity of time and places, and of other things, are more strictly joyned together: To thee either is guilty, both he which hides the truth, and he which tels a lie, because this will not profit, and that desires to hurt; arrogance is not so to be shunned that truth should be left. He that at any time shall accuse a Priest before friendly admonition to his Judges, or Secular Judges, let him be excommunicated. If a Bishop shall have strayed from the faith, or secretly admonished of his subjects, hath

appeared

appeared incorrigible, then let him be accuſed at the Archbiſhops, or Apoſtolical ſear; for his other actions he ought rather to be tolerated then corrected. If any Biſhop be accuſed for certain crimes, let him be heard of all the Biſhops in his Province, not condemned, nor judged, before he has lawful accuſers preſent, and of his Province, not aliens, and he may not refuſe Judges elected by him, unleſs there be an Appeal, which thing is lawful for them deſigned for puniſhment; but no affliction, or the keeping the thing detained, ought to injure the Appellant, or the vitiated Cauſe ayded by remedy of the Appeal: Some men have demanded a year and ſix moneths to be granted for filling up the Machinations of unskilful men, and to prepare their Reaſons, and confirm Witneſſes, and ſeek Counſel, ſome men a year, in which time moſt men agree; but leſs then ſix moneths cannot be found. But if Biſhops or Clerks were ejected by force or fear, or firſt diſpoyled of their goods, let all their goods be legally reſtored to them, and have ſo much time as appeared they were diſſeiſed before that they be Canonically called in to Judgement. *Gregory* in the Decrees. A Presbyter or Deacon, or any Clerk accuſed by the people, if the Witneſſes who ſhould prove the truth, were not certain of the crime committed, let an Oath be in the mean, and bring him for a witneſs of the purity of his innocency, to whom all things are naked and open. Alſo this thing St. *Sixtus* the Pope remembers he had done to one *Baſſus*, although made guilty by much examination, he could ſufficiently evade the ſuſpicion, and avoid the emulation; *Ferom* upon *Feremy lib. primo*, not giving this to them who would not, or of their own accord, had not made choice of making a form. An Oath ought to have companions, Truth, Juſtice, and Judgement; if thoſe things be wanting, it is not an Oath, but perjury: For if any one by compulſion be compelled to abjure that thing, which for many years he hath quietly held, the perjury ſhall not be by him ſwearing, but by him compelling: It makes not a man guilty, where the minde is not guilty. Let no man circumvent or deceive himſelf. He who by a falſe ſtone ſwears, is perjured: by whatſoever art of words any one ſwears, God ſo takes, as he to whom men ſwear, does underſtand. But without doubt it is a leſs evil to ſwear truly by a falſe God, then to ſwear falſly by a true God; for by how much more that by which men ſwear is more holy, ſo much more puniſhale is perjury: Who exacts an Oath, it is much to the purpoſe, if he knows that to be a falſe Oath, or not knows or knows, and gives ſentence; the Laws are mine, as my faith ſtands; I dare not ſay it is no ſin, yet it is a humane temptation; if he knows him to have done it, and compels him to ſwear, it is Homicide. *Siquis juret falſum te ſciente, ſi te non audierit utrum ſit procedendus, ſi proditus & periculum mortis incurrat, difficillima queſtio eſt cui plus noceat, illi cui juratur an Sacerdoti. Mihi videtur quod ille cui magis prodeſt vel obeſt; veritatem jurare neceſſitate cogente non eſt peccatum.* An Oath is not to be kept when bad, it is unadviſedly pronounced. The Oath of a ſon and daughter, the father not knowing it, and Vowes of a Monk, the Abbot not knowing of it, and the Oaths of a childe are void.

Cap. 11.

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to be reſtored upon the Feaſt of St. *Peter* in bonds; he who ſhall keep it beyond that time, let him reſtore that penny to the Biſhop, and thirty pence, let him add to the King 50 *s.* Who ſhall keep *Cheriſceat* beyond the Feaſt of St. *Martin*, let him reſtore it to the Biſhop, and pay eleven fold, and to the King 50 *ſol.* Who married, ſhall commit adultery, let the King or Lord of him have the ſuperior, the Biſhop the inferior: Who ſhall commit perjury upon holy things,* let himloſe his hand, or half his were, (*viz. half the price of his head,*) and this is common to his Lord, and the Biſhop. Who ſhall bear falſe witneſs, let him not afterwards be admitted for witneſs, but reſtore to the King, or the Lord of the Soyl *Helfeng'.** Who ſhall kill a man in Orders, or malign him, let him make him amends as is right, and the amends of the Altar according to the dignity of his Order; to the King or Lord, ſufficient breach of the peace, or deny it with full purgation [*Plena lada neget.*] If any man guilty of death deſires confeſſion, let it never be denied him; but if any man ſhall do it, let him pay the King one hundred and twenty ſhillings, or ſwear with five men that he did it not. If a free-man work upon Holy days, let him amend his *helfeng*, and at leaſt diligently make compoſition with the Lord. If any man by force holds the Rectitudes of God, [*Rectitudines Dei*] let a *Dane* pay *lahite*, an *Engliſhman*, *full witam*, or deny it with eleven;* if he ſhould there wound any man, let him amend this, and reſtore *full witam*, and redeem his hand of the Biſhop, or loſe it: If he kill a man, let him be outlawed, and every man that deſires right, follow him with clamor; if it comes to paſs that he be killed by this, that he reſiſted right, if this thing be verified, let him be unrevenged. He who ſhall make a breach of his Order, let him amend it according to the dignity of the Order, *were*, *Wita*, *Lahilita*,* and with all mercy. Let every widow be without a husband twelve moneths, afterwards ſhe may chooſe whom ſhe will; and if within a year ſhe take a husband, let her loſe her *Morgangifan*,* and all her money which ſhe had from her firſt husband, and let her husband forfeit to the King the price of his head, or to whom the King ſhall grant it. If a man unjuſtly hold a fugitive of God, let him reſtore him to right, and pay to him whoſe he ſhall be, and ſatisfie the King according to *Legergild*. If any man hath a man excommunicated, or keep him outlawed, and

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Of the kindes of Cauſes. Cap. 21.

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Towards the latter end interline 25. *and end,* A Prieſt who leads a regular life, in a ſimple accuſation, may ſwear alone, in a threefold, with two of his Order; a Deacon in a ſimple compellation, may accompany himſelf with two Deacons, in a threefold with ſix. A Countrey Prieſt may purge himſelf as a regular Deacon; a Prieſt accuſed by his Biſhop or Archdeacon, may ſwear himſelf the ſixth of lawful Prieſts, as they are prepared at Maſs.

Of killing a Miniſter of the Altar. 66.

If any ſhould kill a Miniſter of the Altar, let him be outlawed before God and man, unleſs he repent with worthy ſatisfaction, and juſtly compound with his parents, or throughly deny it with purgation of his head, * and begin this within thirty nights before God and man, above all he hath. If any Miniſter of the Altar kill any man, or if it be extraordinarily declared by bad actions, let him be both deprived of his Order, and go on Pilgrimage as the Pope ſhall enjoyn him, and amend the work: But if he will purge himſelf, he may do it triply, but unleſs he ſhall begin this within thirty nights, let him be outlawed before God and men. If any man any ways afflict any man Ordained, with ſtripes, or bonds, let him make him amends as is meet, and to the Biſhop the amends of the Altar according to the dignity of his Order, to the King or Lords, ſufficient breach of the Kings peace, * or deny it with ſufficient purgation. * If any man condemned to death, deſires to be confeſſed, let it never be denied him; but if any man ſhould deny him, let him give the King in ſatisfaction one hundred ſhillings, or ſwear with ſix men that he did not do it. If any man by force takes away Gods rights, let a *Dane* amend with *Lah ſliht, full Wytam* with an *Engliſhman*, or thus deny it, let him take eleven, and he be the twelfth, &c.

* *Nerilade.*

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* *Plenlade.*

Of

Cap. 11. *Of the Pleas of the Church belonging to the King.*

There are ſome Pleas of Chriſtianity, in which the King hath part, in this manner: If the King ſhould ſuffer, that he who in the Church hath committed Homicide, let him come to amendment. Firſt let him reſtore to the Biſhop and King, the price of his Nativity, and ſo he may inlaw himſelf; and then let him diſpoſe five pounds for the peace of the Church, and ſeek to be reconciled to the Church, as belongs to it, and fully make amends, both to Kindred and Donation. If any man detains the right Tenth, let the Sheriff of the Biſhop and King, and of the Lord of the Ground go with the Prieſt, and without thanks take away, and reſtore to the Church what ſhall belong to it, and leave the Ninth part to him who would not pay the Tenth; let them divide the reſt into two parts, let the Lord have one half, the Biſhop the other, be he a Kings man or another, *Romfeath* ought to be reſtored upon the Feaſt of St. *Peter* in bonds; he who ſhall keep it beyond that time, let him reſtore that penny to the Biſhop, and thirty pence, let him add to the King 50*s.* Who ſhall keep *Cherifceat* beyond the Feaſt of St. *Martin*, let him reſtore it to the Biſhop, and pay eleven fold, and to the King 50 *ſol.* Who married, ſhall commit adultery, let the King or Lord of him have the ſuperior, the Biſhop the inferior: Who ſhall commit perjury upon holy things,* let himloſe his hand, or half his were, *(viz. half the price of his head,)* and this is common to his Lord, and the Biſhop. Who ſhall bear falſe witneſs, let him not afterwards be admitted for witneſs, but reſtore to the King, or the Lord of the Soyl *Helfeng'.** Who ſhall kill a man in Orders, or malign him, let him make him amends as is right, and the amends of the Altar according to the dignity of his Order; to the King or Lord, ſufficient breach of the peace, or deny it with full purgation [*Plena lada neget.*] If any man guilty of death deſires confeſſion, let it never be denied him; but if any man ſhall do it, let him pay the King one hundred and twenty ſhillings, or ſwear with five men that he did it not. If a free-man work upon Holy days, let him amend his *helfeng*, and at leaſt diligently make compoſition with the Lord. If any man by force holds the Rectitudes of God, [*Rectitudines Dei*] let a *Dane* pay *lahite*, an *Engliſhman*, *full witam*, or deny it with eleven;* if he ſhould there wound any man, let him amend this, and reſtore *full witam*, and redeem his hand of the Biſhop, or loſe it: If he kill a man, let him be outlawed, and every man that deſires right, follow him with clamor; if it comes to paſs that he be killed by this, that he reſiſted right, if this thing be verified, let him be unrevenged. He who ſhall make a breach of his Order, let him amend it according to the dignity of the Order, *were*, *Wita*, *Lahilita*,* and with all mercy. Let every widow be without a husband twelve moneths, afterwards ſhe may chooſe whom ſhe will; and if within a year ſhe take a husband, let her loſe her *Morgangifan*,* and all her money which ſhe had from her firſt husband, and let her husband forfeit to the King the price of his head, or to whom the King ſhall grant it. If a man unjuſtly hold a fugitive of God, let him reſtore him to right, and pay to him whoſe he ſhall be, and ſatisfie the King according to *Legergild*. If any man hath a man excommunicated, or keep him outlawed, and

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* *Plenlada.*

of

Of Homicides by men Ordained.

Cap. 73. If a Biſhop kill a man, let it be recorded, and let him repent twelve years, ſeven years in bread and water, and five let him faſt three days in a week, and on others let him uſe common ſuſtenance. If a Prieſt kill a man, or a Monk, let him loſe his Order, and repent ten years, ſix in bread and water, and four let him faſt three days in a week, on others let him uſe his meat. If a Presbyter wound a man, let him faſt one hundred days. If a Deacon kill a man, let him be degraded, and repent ſeven years, four in bread and water, and three let him faſt three days in a week, upon other let him uſe common meat. If a Clerk ſhall kill a man, let him repent ſix years, four in bread and water, two years, three days in the week. If a Laick kill a man, let him repent five years, three in bread and water, and two years let him faſt three days in the week. If a man kill a man in Orders, or his neighbor, let him depart out of his Countrey, and go to *Rome*, and make the Pope and his Councel; let him in like maner repent of Adultery, or Fornication, or lying with a Nun.

Theſe Laws are likewiſe ſet out by Mr. Abraham Whelock *in the Appendix to his Hiſtory of* Bede.

Sir *Ed. Coke, Caudrys* Caſe, ſays *Henry* the firſt, did Ordain *Anno 16. Regni ſui*, as well in regard of his Eccleſiaſtical as Regal power, that whenſoever the Abbot of *Reading* ſhall die, that all the Poſſeſſions do remain entire and free. *But how this ſhould make any thing for the Kings Eccleſiaſtical Right in all Caſes I do not underſtand; for this Ordinance was onely concerning the Poſſeſſions of the Abbey, and it is no Queſtion but all the Biſhopricks as well as Abbeys, were originally of the Kings foundation, and it appears by the Margent, that the King was the particular Founder of this Abby; what then hinders but that the King might diſpoſe of the Revenues as he ſhould think fit, without having any Ghoſtly power in him.*

Eccleſiaſtical Laws made by *Henry* the third.

Magna Charta.

Cap. 1. FIrſt we have granted to God, and by this our preſent Chapter have confirmed for us and our heirs for ever, that the Church of *England* ſhall be free, and ſhall enjoy all her whole Rights and Liberties inviolable.

Cap. 38. According to Sir *Edward Coke, Inſt.* 2. yet the Statute-book in large divides this Act but into thirty ſeven Chapters. Reſerves to all Archbiſhops, Biſhops, Abbots, Priors, Templars, Hoſpitalers, and all perſons Eccleſiaſtical, all their free Liberties which they have had in time paſſed: and all theſe Cuſtoms and Liberties aforeſaid, which we have granted to be holden within this Realm, as much as appertains to us and our heirs, we ſhall obſerve. And all men as well Spiritual as Temporal (as much as in them is) ſhall obſerve the ſame againſt all perſons likewiſe. And for this our Gift and Grant of theſe Liberties, and of other contained in our Charter of Liberties of our Foreſt, Archbiſhops, Biſhops, Abbots, Priors, Earls, Barons, Knights, Freeholders, and other our Subjects have given to us the fifteenth part of their moveables; and we have granted to them on the other part, that neither we nor our heirs, ſhall procure or do any thing, whereby the Liberty in this Charter contained ſhall be infringed or broken: And if any thing be procured by any perſon, contrary to the premiſſes, it ſhall be of no force nor effect. *In*

In the Reign of Hen. 3. Cawdries Caſe.

In all the time of *Henry* 3. and his Progenitors Kings of *England*, and ever ſince, if any man did ſue afore any Judge Eccleſiaſtical within the Realm, for any thing whereof that Court by allowance and cuſtom had not any lawful cogniſance, the King did ever by his Writ under the Great Seal prohibit them to proceed. *Anſw.* It is true indeed, that not only Probate of Teſtaments, but Cogniſance of Tythes, Granting of Letters of Adminiſtration, Mortuaries, Penſions, Reparation of Churches, do not belong to Eccleſiaſtical cogniſance by any Divine poſitive inſtitution, but by allowance and cuſtom of *England*. And if all Cuſtoms ſuppoſe ſome Grant originally from Supreme humane Powers, then what hinders but that the King might prohibit any Judge Eccleſiaſtical within the Realm, for any thing whereof that Court by allowance and cuſtom had not lawful conuſance? for, *Cujus eſt velle, ejus eſt nolle.* And if the ſuggeſtion made to the King, whereupon the Prohibition was grounded, were after found untrue, then the King by his Writ of *Conſultation* under the Great Seal, did allow and permit them to proceed. Alſo in all the Reign of *H.* 3. and his Progenitors Kings of *England*, if any Iſſue were joyned upon Loyalty of Marriage, General Baſtardy, or ſuch like, the King did ever write to the Biſhop of the Dioceſe, as Mediate Officer and Miniſter of his Court, to certifie the Loyalty of the Marriage, Baſtardy, or ſuch like: All which prove that thoſe Courts were under the Kings juriſdiction and commandment.

3 *H.* 3. *tit. Prob.* 13. 4 *H.* 3. &c.

Plea.

It is true, that not only all Courts, and planting of Chriſtianity, were originally by the Kings command or permiſſon, but the perſons of all men within the Realm are in his power: And Marriage, and Baſtardy being ſo eſſential, and whereupon the ſtrength of mens eſtates and inheritances do depend, what hinders the King to write to the Biſhop, to certifie the Loyalty of the Marriage? And if it pleaſes him to do it as his mediate officer, who ſhall contradict it? Well, let it be granted, the Kings of England, *in caſes of Baſtardy and Loyal Matrimony, have written to the Biſhop of the Dioceſe as his mediate officer, yet it will not follow that the Biſhop is the Kings mediate officer in all things and caſes which relate to his Epiſcopal function and juriſdiction.*

Eccleſiaſtical Laws made by Edward *the Firſt.*

THe King willeth that the peace of the holy Church be maintained in all points, and that Religious Houſes ſhall not be overcharged, nor any Purveyance be made of any Prelate, without the owners conſent. They who ſhall offend, and be thereof attainted, ſhall be committed to the Kings priſon, and after ſhall make fine and be puniſhed according to the quantity and manner of the treſpaſs, and after as the King in his Court ſhall think fit, &c.

Stat. Weſt. 1. an. 3. Ed. 1. 1275.

It is provided alſo, That when any Clerk is taken for guilty of felony, and is demanded by the Ordinary, he ſhall be delivered to him according to the priviledge of the holy Church, on ſuch peril as belongeth to it after the cuſtom aforetimes uſed. And the King admoniſheth the Prelates, and enjoineth them upon the faith that they ow to him, and for the common profit and peace of the Realm, that they which be indicted of ſuch offences by ſolemn Inqueſt of lawful men in the Kings Court, in no manner ſhall be delivered without due purgation, ſo that the King ſhall not need to proide any other remedy therein.

Cap. 1.

The Statute of *Circumspectè agatis*, made 13 *Ed.* I. 1285.

Cap. 1. *Certain Cases wherein the Kings Prohibition doth not lie.*

The King to his Judges sendeth greeting. Use your selves circumspectly in all matters concerning the Bishop of *Norwich* and his Clergy, not punishing them if they hold plea in Court Christian of such things as be meerly Spiritual, that is to wit, of Penance injoined by Prelates for deadly sin, of Fornication, Avowtry, and such like, for the which sometimes corporal penance, and sometime pecuniary is enjoined, specially if a Freeman be convict of such things. As also Prelates do punish for leaving the Churchyard uncloſed, or for that the Church is uncovered, or not conveniently decked; in which cases none other penance can be enjoined but pecuniary.

Item, If a Parson demand of his Parishioners, Oblations or Tithes due and accustomed; or if any Parson do sue against another Parson for Tithes greater or smaller, so that the fourth part of the value of the benefits be not demanded.

Item, If a Parson demand Mortuaries, in places where a Mortuary hath been used to be given.

Item, If a Prelate of a Church, or a Patron demand of a Parson a Pension due to him; All such demands are to be made in a Spiritual Court. And for laying violent hands on a Clerk, and in case of Defamation, it hath been granted already that it shall be tryed in a Spiritual Court, when money is not demanded, but a thing done for punishment of sin, and likewise for the breaking of an Oath. In all cases afore-rehearsed, the Spiritual Judge shall have power to take knowledge, notwithstanding the Kings Prohibition.

Cap. 1. *Statutum de asportatis Religiosorum*, made *Anno* 35. *Ed.* I. 1307.

Of late it came to the knowledge of our Lord the King, by the grievous complaint of the Honorable persons, Lords, and other Noblemen of his Realm, That whereas Monasteries, Priories, and other Religious Houses were founded to the honor and glory of God, and the advancement of the Holy Church, by the King and his Progenitors, and by the said Noblemen and their Ancestors, and a very great portion of Lands and Tenements have been given by them to the said Monasteries, Priories, and Houses, and the Religious men serving God in them, to the intent that Clerks and Laymen might be admitted in such Monasteries, Priories, and Religious Houses, according to their sufficient ability, and that sick and feeble men might be maintained, Hospitality, Alms-giving, and other charitable deeds might be done, and that in them prayers might be said for the souls of the said Founders and their heirs: The Abbots, Priors, and Governors of the said Houses, and certain Aliens their Superiors, as the Abbots and Priors of *Cistercienses*, and *Premonstratenses*, and of the Order of S. *Augustine* and S. *Benedict*, and many more of other Religion and Order, have at their own pleasures set divers insupportable tallages, payments and impositions upon every of the said Monasteries and Houses in subjection unto them in *England*, *Ireland*, *Scotland* and *Wales*, without the privity of our Lord the King and his Nobility, contrary to the laws and customs of the said Realm; and thereby the number of the said Religious persons, and

other

other ſervants in the ſaid Houſes and Religious places being oppreſſed by ſuch tallages, payments and impoſitions, the ſervice of God is diminiſhed, Alms be not given to the poor, the ſick and feeble; the healths of the living, and the ſouls of the dead be miſerably defrauded; Hoſpitality, almſgiving, and other godly deeds do ceaſe. And ſo that which in times paſt was charitably given to godly uſes, and to the increaſe of the ſervice of God, is now converted to an evil end; by permiſſion whereof there grows great ſcandal to the people, and infinite loſſes and diſheritances are like to enſue to the Founders of the ſaid Houſes, and their Heirs, unleſs ſpeedy and ſufficient remedy be provided to redreſs ſo many and grievous detriments.

Wherefore our Lord the King, conſidering that it would be very prejudicial to him and his people, if he ſhould any longer ſuffer ſo great loſſes and injuries to be winked at: And therefore being willing to maintain and defend the Monaſteries, Priories, and other Religious houſes erected in his Kingdom, and in all Lands ſubject to his dominion, and from henceforth to provide ſufficient remedy to reform ſuch oppreſſions, as he is bound: By the counſel of his Earls, Barons, Great men, and other Nobles of his Kingdom, in his Parliament holden at *Weſtminſter* in the 35. year of his reign, hath ordained and enacted,

Religious perſons ſhall ſend nothing to their Superiors beyond the Sea. Cap. 2.

That no Abbot, Prior, Maſter, Warden, or any other Religious perſon of whatſoever condition, ſtate or religion he be, being under the Kings power or juriſdiction, ſhall by himſelf, or by merchants or others, ſecretly or openly, by any device or means, carry or ſend, or by any other means cauſe to be ſent any Tax impoſed by the Abbots, Priors, Maſters or Wardens of Religious houſes their Superiors, or aſſeſſed amongſt themſelves, out of the kingdom and his dominion, under the name of a rent, tallage, or any kind of impoſition, or otherwiſe by way of exchange, mutual ſale, or other contract, however it may be termed. Neither ſhall depart into any other country for viſitation, or upon any other colour, by that means to carry the goods of their Monaſteries and Houſes out of the Kingdom and Dominion aforeſaid. And if any will preſume to offend this preſent Statute, he ſhall be grievouſly puniſhed according to the quality of his offence, and according to his contempt of the Kings prohibition.

No Impoſitions ſhall be taxed by Priors Aliens. 3.

Moreover, our Lord the King doth inhibit all and ſingular Abbots, Priors, Maſters and Governors of Religious houſes and places, being Aliens, to whoſe authority, ſubjection and obedience, the Houſes of the ſame Orders in his kingdom and domion be ſubject; that they do not at any time hereafter impoſe, or by any means aſſeſs any tallages, payments, charges, or other burdens whatſoever, upon the Monaſteries, Priories, or other Religious houſes in ſubjection to them (as is aforeſaid) and that upon pain of all they have, or may forfeit.

By whom the Common Seal of an Abbey ſhall be kept, and how uſed. 4.

And further, our Lord the King hath ordained and eſtabliſhed, that the Abbots of the Orders of *Ciſtercienſis*, and *Promonſtratenſis*, and other Religious Orders, whoſe Seal hath heretofore been uſed to remain only

in the cuſtody of the Abbot, and not of the Covent, ſhall hereafter have a Common Seal, and that ſhall remain in the cuſtody of the Prior of the Monaſtery or Houſe, and four of the moſt worthy and diſcreet men of the Covent of the ſame Houſe, to be laid up in ſafe keeping under the Private Seal of the Abbot of the ſame Houſe: So that the Abbot or Prior which does govern the Houſe, ſhall be able of himſelf to eſtabliſh nothing, though heretofore it hath been otherwiſe uſed. And if it fortune hereafter, that writings of Obligations, Donations, Purchaſes, Sales, Alienations, or of any other Contracts, be ſealed with any other Seal then ſuch a Common Seal kept as is aforeſaid, they ſhall be adjudged void and of no force in Law. But it is not the meaning of our Lord the King, to exclude the Abbots, Priors, and other Religious Aliens, by the Ordinances and Statutes aforeſaid, from executing the office of Viſitation in his Kingdom and Dominion; but they may viſit at their pleaſures by themſelves or others the Monaſteries and other places in his Kingdom and Dominion in ſubjection to them, according to the duty of their office, in theſe things only that belong to Regular obſervation, and the diſcipline of their Order. Provided, that they which ſhall execute this office of Viſitation, ſhall carry, or cauſe to be carried out of his Kingdom or Dominion, none of the goods or things of ſuch Monaſteries, Priors, and Houſes, ſaving only their reaſonable and competent charges.

Stat. Ne Rector proſternat arbores in Cæmiterio, made 35 *Ed.* 1. *Anno Dom.* 1307.

In what caſes, and by whom, Trees may be felled in a Churchyard.

Becauſe we do underſtand, that controverſies do ofttimes grow between Parſons of Churches and their Pariſhioners, touching Trees growing in the Church-yard, both of them pretending that they do belong unto themſelves: We have thought good rather to decide this controverſie by writing then by Statute. Foraſmuch as a Church-yard that is dedicated, is the ſoil of a Church, and whatſoever is planted belongs to the ſoil, it muſt needs follow, that thoſe Trees which be growing in the Church-yard, are to be reckoned amongſt the goods of the Church, the which Laymen have no authority to diſpoſe; but, as the holy Scripture does teſtifie, the charge of them is committed only to Prieſts to be diſpoſed of. And yet ſeeing thoſe Trees be often planted to defend the force of the wind from hurting of the Church; We do prohibit the Parſons of the Church, that they do not preſume to fell them down unadviſedly, but when the Chancel of the church does want neceſſary reparations: Neither ſhall they be converted.

In the Reign of Edward *the Firſt.*

30 E. 3. *li. Aſſ. Pl.* 19, &c. A Bull of Excommunication brought by one Subject againſt another, was adjudged by the Common law, Treaſon againſt the King, his crown and dignity.

Par. 2. 19 E. 1. *Quare non admiſit.* *Edw.* 1. ſeiſed the lands of the Archbiſhop of *York*, becauſe he refuſed to admit his Clerk, but pleaded that the Biſhop of *Rome* long time before provided to the ſaid Church.

Para. 3. *Stat. de Biga.* 4 *Ed.* 1. The King and his Council did not receive the conſtitution of the Biſhop of *Rome* at *Lions*, which excluded men twice married, or *Bigami*, from all priviledges of Clergy.

It

It was declared, that the holy Church of *England* was founded in the ſtate of Prelacy within this Realm of *England*, by the King and his progenitors; And that the Biſhop of *Rome* uſurping the ſeigniory of ſuch Benefices, &c. that the ſaid oppreſſions, grievances and damages in this Realm, from thenceforth ſhall not be ſuffered. *Stat. 25 Ed. 1. Carliſle.*

Articuli Cleri, made at *Lincoln, Anno 9 E. 2. & Anno Dom.* 1315.

The King to all whom &c. ſendeth greeting. Underſtand ye, that whereas of late in times of our Progenitors ſometimes Kings of *England*, in divers their Parliaments, and likewiſe after that we had undertaken the governance of the Realm, in our Parliaments many Articles containing divers grievances (committed againſt the Church of *England*, the Prelates and Clergy) were propounded by the Prelates and Clerks of our Realm, and further great inſtance was made, that convenient remedy might be provided therein: And of late in our Parliament holden at *Lincoln* the ninth year of our reign, we cauſed the Articles underwritten, with certain Anſwers made to ſome of them heretofore to be rehearſed before our Council, and made certain Anſwers to be corrected, and to the reſidue of the Articles underwritten Anſwers were made by us and our Council; of which ſaid Articles, with the Anſwers of the ſame, the tenors here enſue.

No Prohibition ſhall be granted where Tithes be demanded, but where money for them. *Cap. 1.*

Firſt, whereas Laymen do purchaſe Prohibitions generally upon Tithes, Obventions, Oblations, Mortuaries, Redemption of penance, violent laying hands on Clerks or Converts, and in caſes of Defamation, in which caſes Spiritual penance ought to be injoined: The King doth anſwer to this Article, That in Tithes, Oblations, Obventions, Mortuaries, (when they are propounded under theſe names) the Kings prohibition ſhall hold no place, although for the long withholding of the ſame, the money may be eſteemed at a ſum certain. But if a Clerk or a Religious man do ſell his Tithes being gathered in his barn, or otherwhere, to any man for money, if the money be not demanded before a Spiritual Judge, the Kings Prohibition ſhall lie; for by the ſale, the ſpiritual goods are made temporal, and the Tithes are turned into chattels. *Regiſt. fol. 34. 39. v. N. B. f. 3032. Fitz. N. B. fo. 40, &c. & Raſt. pla. fo. 484, &c.*

Debate upon the right of Tithes exceeding the fourth part. Enjoining Penance corporal, or pecuniary. *Cap. 2.*

Alſo if debate do ariſe upon the right of Tithes, having his original from the right of Patronage, and the quantity of the ſame Tithes do come unto the fourth part of the goods of the Church, the Kings Prohibition ſhall hold place, if the caſe come before a Judge Spiritual. Alſo if a Prelate enjoin a penance pecuniary to a man for his offence, and if it be demanded, the Kings Prohibition ſhall hold place: But if Prelates enjoin a penance corporal, and they which be ſo puniſhed will redeem upon their own accord ſuch penances by money, if money be demanded before a Judge Spiritual, the Kings prohibition ſhall hold no place.

Laying

Cap. 3. *Laying violent hands upon a Clerk. Excommunication for Penance corporal.*

Moreover, if any lay violent hands upon a Clerk, the amends for the Peace broken shall be before the King. And for the Excommunication before a Prelate, that Penance corporal may be enjoined, which if the offender will redeem of his own good will, by giving money to the Prelate, or to the party grieved, it shall be required before the Prelate, and the Kings Prohibition shall not lie.

4. *Prelates may correct for Defamation.*

In Defamations also Prelates shall correct in manner aforesaid, the Kings Prohibition notwithstanding; first enjoining a penance corporal, which if the offender will redeem, the Prelate may freely receive the money, though the Kings Prohibition be granted.

5. *No Prohibition where the Tithe is demanded of a new Mill.*

Also if any one do erect in his ground a Mill of new, and after the Parson of the same place demandeth Tithe for the same, the Kings Prohibition doth issue in this form: *Quia de tali molendino hactenus decimæ non fuerunt solutæ, prohibemus, &c. Et sententiam Excommunicationis, si quam hac occasione promulgaveritis, revocetis omnino.*] *The Answer.* In such case the Kings Prohibition was never granted by the Kings assent, nor never shall, which hath decreed that it shall not hereafter lie in such cases.

6. *Where a Suit for one offence may be prosecuted both in Court Spiritual and Temporal.*

Also if any cause or matter, the knowledge whereof belongeth to a Court Spiritual, and shall be definitively determined before a Judge Spiritual, and does pass into a Judgment, and shall not be suspended by an Appeal; and after if upon the same thing a Question is moved before a Temporal Judge between the same parties, and it be proved by witness or instruments; such an Exception is not to be admitted in a Temporal Court. *The Answer.* When any one case is debated before Judges Spiritual and Temporal, as above appeareth (upon the case of laying violent hands upon a Clerk) it is thought notwithstanding the Spiritual Judgment, the Kings Court shall discuss the same matter, as the party shall think expedient for himself.

7. *In what case only the Kings Letter shall be sent to discharge an Excommunication.*

Also the Kings Letter directed unto Ordinaries, that have wrapped those that be in subjection unto them in the sentence of Excommunication, that they should assoil them by a certain day, or else that they do appear and shew wherefore they have excommunicated them. *The Answer.* The King decreeth, that hereafter no such Letter shall be suffered to go forth, but in case where it is found that the Kings liberty is prejudiced by such Excommunication.

8. *Clerks in the Kings service shall be discharged of their Residence, but shall be corrected by their Ordinary.*

Also Barons of the Kings Exchequer claiming by their priviledge, that they ought to make answer to no complainant out of the same place, extend the same priviledge unto the Clerks abiding there, called to Orders, or unto Residence, and inhibit Ordinaries, that by no means, or for any cause (so long as they be in the Exchequer, or Kings service) that they call not them

to

to Judgment. *Anſ.* It pleaſeth our Lord the King, that ſuch Clerks as attend in this ſervice, if they offend, ſhall be correct by their Ordinaries, like as other; but ſo long as they are occupied about the Exchequer, they ſhall not be bound to keep reſidence in their Churches. *This is added of new by the Kings Council.* The King and his Anceſtors, ſince time out of mind, have uſed that Clerks which are imployed in his ſervice, during ſuch time as they are in his ſervice ſhall not be compelled to keep reſidence at their Benefices: And ſuch things as be thought neceſſary for the King aad Commonweal, ought not to be ſaid to be prejudicial to the liberty of the Church.

Diſtreſſes ſhall not be taken in the High-ways, nor in the antient Fees of the Church. Cap. 9.

Alſo the Kings Officers, as Sheriffs and other, do enter into the Fees of the Church to take Diſtreſſes; and ſometimes they take the Parſons beaſts in the High-way, where they have nothing but the land belonging to the Church. *The Anſwer.* The Kings pleaſure is, that from henceforth ſuch Diſtreſſes ſhall neither he taken in the Kings High-way, nor in the Fees wherewith Churches in tiimes paſt have been endowed: Nevertheleſs he willeth Diſtreſſes to be taken in poſſeſſion of the Church newly purchaſed by Eccleſiaſtical perſons.

They that abjure the Realm, ſhall be in peace as long as they be in the Church or High-way. 10.

Alſo where ſome flying unto the Church, abjure the Realm according to the cuſtom of the Realm, and Laymen or their enemies do purſue them and pluck them from the Kings High-way, and they be hanged or headed; and whilſt they be in the Church, are kept in the Church-yard with armed men, and ſometime in the Church ſo ſtraitly, that they cannot depart from the hallowed gronnd to empty their belly, and cannot be ſuffered to have neceſſaries brought unto them for their living. *The Anſwer.* They that abjure the Realm, ſo long as they be in the common way, ſhall be in the Kings peace, nor ought to be diſturbed of any man; and when they be in the Church, their Keepers ought not to abide in the Church-yard, except neceſſity or peril of eſcape do require ſo: And as long as they be in the Church, they ſhall not be compelled to flee away, but they ſhall have neceſſaries for their living, and may go forth to empty their belly. And the Kings pleaſure is, that Thieves or Appellors (whenſoever they will) may confeſs their offences unto Prieſts; but let the Confeſſors beware that they do not erroniouſly inform ſuch Appellors.

Religious Houſes ſhall not be charged by compulſion, with Corodies, Penſions, Reſort, or taking in of Horſes and Carts. 11.

Alſo it is deſired, that our Lord the King, and the Great men of the Realm, do nor charge Religious houſes or Spiritual perſons for Corodies, Penſions, or Sojourning in Religious houſes, and other places of the church, or with taking up of horſes or carts, whereby ſuch houſes are impoveriſhed, and Gods ſervice diminiſhed, and by reaſon of ſuch charges, Prieſts and other Miniſters of the Church deputed unto Divine ſervice, are oftentimes compelled to depart from the places aforeſaid. *The Anſwer.* The Kings pleaſure is, that upon the contents in their Petition from henceforth they ſhall not be unduly charged: And if the contrary be done by Great men or other,

they

they ſhall have remedy after the form of the Statutes made in the time of King *Edward* Father to the King that now is. And the like remedy ſhall be done for corodies and penſions exacted by compulſion, whereof no mention is made in the ſaid Statutes.

Cap. 12. *A Clerk excommunicated, may be taken out of the Pariſh where he dwelleth.*

Alſo if any of the Kings tenure be called before their Ordinaries out of the Pariſh where they continue; if they be excommunicate for their manifeſt contumacy, and after forty days a Writ goeth out to take them, and they pretend their priviledge that they ought not to be cited out of their Town and Pariſh where their dwelling is, and ſo the Kings Writ that went out to take them is denied. *The Anſwer.* It was never yet denied, nor ſhall be hereafter.

13. *The examination of a Parſon preſented to a Benefice, belongeth to a Spiritual Judge.*

Alſo it is deſired that Spiritual perſons, whom our Lord the King doth preſent unto Benefices of the Church (if the Biſhop will not admit them either for lack of learning, or for other cauſe reaſonable) may not be under examination of Lay-perſons in the caſes aforeſaid, as it is now attempted contrary to the Decrees canonical, but that they may ſue unto a Spiritual Judge for remedy as right ſhall require. *The Anſwer.* Of the ability of a Parſon preſented unto a Benefice of the Church, the examination belongs to a Spiritual Judge, and ſo it hath been uſed heretofore, and ſhall be hereafter.

14. *There ſhall be a free election of the Dignities of the Church.*

Alſo if any Dignity be vacant, where election is to be made, it is moved that the Electors may freely make their election without fear of any Power temporal, and that all prayers and oppreſſions ſhall in this behalf ceaſe. *Anſ.* They ſhalbe made free according to the form of Statutes & Ordinances.

18. *A Clerk fleeing into the Church for Felony, ſhall not be compelled to abjure.*

Moreover, though a Clerk ought not to be judged before a Temporal Judge, nor any thing may be done againſt him that concerneth life or member; nevertheleſs Temporal Judges cauſe that Clerks fleeing unto the Church, and peradventure confeſſing their offences, do abjure the Realm, and for the ſame cauſe admit their abjurations, although hereupon they cannot be their Judges; and ſo power is wrongfully given to Lay-perſons to put to death ſuch Clerks, if ſuch perſons chance to be found within the Realm after their abjuration: The Prelates and Clergy deſire ſuch remedy to be provided herein, that the immunity or priviledge of the Church, and Spiritual perſons, may be ſaved and unbroken. *The Anſwer.* A Clerk fleeing to the Church for felony, to obtain the priviledge of the Church, if he affirm himſelf to be a Clerk, he ſhall not be compelled to abjure the Realm, but yielding himſelf to the Law of the Realm, ſhall enjoy the priviledge of the Church according to the laudable cuſtom of the Realm heretofore uſed.

16. *The priviledge of the Church being demanded by the Ordinary, ſhall not be denied to a Clerk that hath confeſſed Felony.*

Alſo notwithſtanding that a confeſſion made before him that is not lawful Judge thereof, is not ſufficient whereon Proceſs may be awarded,

or

or sentence given, yet some temporal Judges (though they have been constantly desired thereunto) do not deliver to their Ordinaries according to the premises, such Clerks as confess before them their hainous offences, as Theft, Robbery, and Murder, but admit their Accusation, which commonly they call an Appeal, albeit to this respect they be not of their Court, nor can be judged or condemned before them upon their own confession, without breaking of the Churches priviledges. *The answer*, the priviledge of the Church being demanded in due form by the Ordinary, shall not be denied unto the Appealer as to a Clerk: We desiring to provide for the state of the Church of *England*, and for the tranquillity and quiet of the Prelates and Clergy aforesaid, as far forth as we lawfully may do to the honor of God, and the emendation of the Church, Prelates and Clergy of the same, ratifying, confirming, and approving, all and every of the Articles aforesaid, with all and every of the Answers made and contained in the same, do grant and command them to be kept firmly, and observed for ever, willing and granting for us and our heirs, that the aforesaid Prelates and Clergy, and their successors, shall use, execute and practice for ever, the jurisdiction of the Church in the premises, after the tenor of the answers aforesaid, without quarrel, inquieting, or vexation of our heirs, or any of our Officers, whatsoever they be.

In the Reign of King Edward the second.

Albeit the Ordinance of *Circumspecte agatis*, made in the 13. of *Ed.* 1. and by the general allowance and usage, the Ecclesiastical Court held Plea of Tithes, Obventions, Oblations, Mortuaries, Redemptions of Penance, laying of violent hands upon a Clerk, Defamations, &c. Yet did not the Clergy think themselves assured nor quiet from Prohibitions Purchased by Subjects until *Ed.* 2. by his Letters Patents under the Broad Seal, in and by consent of Parliament, upon Petition of the Clergy, had granted unto them to have Jurisdiction in those cases. The King in Parliament holden in the ninth year of his Reign, after particular answers made to those Petitions, concerning the matters aboveseid, does grant and give his Royal assent in these words. *Caudries Case.* *Cap. 2.*

We desiring as much as of right we may, to provide for the state of the Church of *England*, and the tranquility of the Prelates of the said Clergy, to the honour of God, and the amendment of the state of the said Church, and of the Prelates and Clergy, ratifying and approving all and singular the said answers, which appears in the said Act, and all and singular things in the said answers contained, we do for us and our heirs grant and command, that the same be inviolably kept for ever: Willing and granting for us and our heirs, that the said Prelates and Clergy, and successors for ever, do exercise Ecclesiastical Jurisdiction in the premises, according to the tenor of the said answer.

A Statute of the Clergy made Anno 18. Ed. 3. Anno Dom. 1344.

Bigamy shall be tryed by the Ordinary, and not by Inquest.

Item. If any Clerk be arraigned before our Justices, at our Suit, or the Suit of the party, and the Clerk holdeth him to his Clergy, alleadging that he ought not before them thereupon to answer, and if any man for us, or for the same party, will suggest that he hath married two Wives, or one Widow, that upon the same, the Justices shall not have cognizance or power to

try the Bigamy by Inquest, or in other manner; but it shall be sent to the Spiritual Court, as hath been done in times past, in case of Bastardy, and till the Certificate be made by the Ordinary, the party in whom the Bigamy is alleadged by the words aforesaid, or in other manner, shall abide in prison unless he be mainpernable.

Cap. 3. *Item*, If Prelates, Clerks beneficed, or Religious people which have purchased Lands, and the same have put to Mortmain, be impeached upon the same before our Justices, and they shew our Charter of Licence, and Proces thereupon made by an Inquest of *ad quod Damnum*, or of our Grace, or by Fine, they shall be freely let in peace, without being further Impeached for the same Purchase; and in case they cannot sufficiently shew that they have entred by due Proces after Licence to them granted, in general or in special, that they shall be well received to make a convenient Fine for the same, and that the inquiry of this Article shall wholly cease, according to the accord comprized in this Parliament.

4. *Item*, That the Statues touching the Purveiances of us and our son, made in times past by us and our Progenitors, for the people of holy Church, be holden in all parts: And that in the Commissions to be made upon such Purveiances, the Fees of holy Church shall be excepted in every place where they be found.

5. *Item*, That no Prohibition shall be awarded out of the Chancery, but in case where we have the cognizance, and of right ought to have.

6. *Item*, Whereas Commissions be newly made to divers Justices, that they shall make enquiries upon Judges of the holy Church, whether they made just proces or excessive in Causes Testimentary or other, which notoriously pertaineth to the cognizance of holy Church, the said Justices have enquired, and caused to be Indicted, Judges of the holy Church, in blemishing of the Franchise of the holy Church: That such Commissions be repealed, and from henceforth defended, saving the Article in *Eyre*, such as ought to be.

No Scire facias *shall be awarded against a Clerk for Tythes.*

7. *Item*, Whereas Writs of *Scire facias* have been granted to warn Prelates, Religious, and other Clerks, to answer Dismes in our Chancery, and to shew if they have any thing, or can any thing say, wherefore such Dismes ought not to be restored to the said Demandants, and to answer as well to us, as to the party to such Dismes: That such Writs from henceforth be not granted, and that the proces hanging upon such Writs be annulled and repealed, and that the parties be dismissed from the Secular Judges of such manner of Pleas; saving to us our right, such as we and our ancestors have had, and were wont to have of reason. In witness whereof, at the request of the said Prelates, to these present Letters we have set our Seal: Dated at *London* this 8th of *July*, the year of our Reign of *England* 18. of *France* the 5th.

In the Reign of Ed. 3.

10 Ed. 3. tit. Excom. 4. An Excommunication by the Archbishop, albeit it be disannulled by the Pope or his Legats, is to be allowed, neither ought the Judges to give any allowance of any such sentence of the Pope or his Legat.

In the Reign of Ed. 3. It is often resolved that all the Bishopricks within *England* were founded by the Kings Progenitors, and therefore the Advousons of them all belong to the King, and at first they were Donative; and if that any incumbent of any Church with cure die, if the Patron present not within six moneths, the

the Biſhop of that Dioces ought to collate, to the end the Cure may not be deſtitute of a Paſtor: if he be negligent by the ſpace of ſix moneths, the Metropolitan of that Dioces ſhall confer one to that Church; and if he alſo leave the Church deſtitute by the ſpace of ſix moneths, then the common Law gives to the King as Supream within his own Kingdom, and not to the Biſhop of *Rome*, power to provide a competent Paſtor for that Church.

The King may not onely exempt any Eccleſiaſtical perſon from the Juriſdiction of the Ordinary, but may grant him Epiſcopal Juriſdiction: And thus it appears there, the King had done of antient time to the Arch-Deacon of *Richmond*. *This reſolution is not grounded upon any Cuſtom or Law, but onely upon a particular fact of a King; & a facto ad jus non valet argumentum.* 17 *Ed.* 3. 23.

All Religious or Eccleſiaſtical Houſes whereof the King was Founder, are by the King exempt from Ordinary Juriſdiction, and onely viſitable, and corrigible by the Kings Eccleſiaſtical Commiſſion. *This reſolution too is onely grounded upon matter of Fact; and what man will warrant all the Facts of Kings not to be repugnant to the Laws of God and man? Yet ſhall not theſe men in other things of much leſs moment, allow the Kings Proclamations to be Legal, nor any thing leſs then the Commom Law, or Acts of Parliament.* 20 *E.* 3. *Excom.* 9. 19. *Ed.* 3.

The Abbot of *Bury* was exempted from Epiſcopal juriſdiction, by the Kings Charter: *This is nothing neither but matter of Fact.* 20 *Ed.* 3. *tit. Excom.* 6.

The King preſenteth to a Benefice, and his preſentee was diſturbed by one who had obtained Bulls from *Rome*, for which offence he was condemned to perpetual impriſonment, &c. 21 *Ed.* 3. 40. *fol.* 40.

Tythes ariſing out of any pariſh the King ſhall have, for that he having the Supream Eccleſiaſtical juriſdiction, is bound to provide a ſufficient Paſtor that ſhall have the cure of ſouls of that place which is not within any pariſh: And by the common Laws of *England* it is evident, that no man, unleſs he be Eccleſiaſtical, or have Eccleſiaſtical juriſdiction, can have inheritance of Tithes. 22 *Ed.* 3. *l.* 1. *Aſſ. pl.* 75.

The King ſhall preſent to his free chappels (in default of the Dean) by lapsin reſpect of his ſupream Eccleſiaſtical juriſdiction. And *Fitz Herbert* ſaith that the King in that caſe does preſent by laps as Ordinary, *Fitz nat. Br.* 34. 27 *Ed.* 3. *fol.* 84.

An Excommunication under the Popes Bull, is of no force to diſable any man within *England*; and no ſuit for any cauſe, though ſpiritually riſing in this Realm, ought to be determined in the court of *Rome*. 30 *Ed.* 3. *lib. Aſſ. pl.* 19, *&c.*

In an Attachment upon a Prohibition, the Popes Bull of Excommunication of the plaintiff, was adjudged inſufficient. 21 *Ed.* 3. *tit. Excom.* 6.

Reges ſacro Oleo uncti, ſunt Spiritualis juriſdictionis capaces. 33 *Ed.* 3. *tit. Agel de Roy.*

A Prior which is the Kings Debtor, and ought to have Tithes of another ſpiritual perſon, may chuſe either to ſue for ſubſtraction of his Tithes in the Eccleſiaſtical court, or in the Exchequer, *Fitz Herbert* in his *N. B. fol.* 30. holdeth, that before the *St.* 18 *Ed.* 3. *Cap.* 7. the right of Tithes were determinable at the temporal courts at the election of the party. And the courts of divers Manors of the Kings and other Lords in antient times, had the probate of laſt Wills and Teſtaments, and it appeareth by 11 *H.* 7. *fol.* 12. That the probate of Wills and Teſtaments did not appertain to the Eccleſiaſtical courts, but that of late time they were determinable there. 38 *Aſſ. pl.* 20.

The King by his Charter did tranſlate Canons ſecular, into regular and religious perſons. 38 *Lib. Aſſ. pl.* 22.

Nicholas Moris elected Abbot of *Waltham*, which was exempt from ordina- 46 *Ed.* 3. *Protn* 6.

ry Juriſdiction ſent to *Rome* to be confirmed by the Pope; who not having regard to the ſaid Election, gave to the ſaid *Nicholas* the ſaid Abby, with all the ſaid Spiritualities, and Temporalities; the Bull was adjudged againſt the Laws of *England*, and the Abbot for obtaining the ſame, was fallen into the Kings mercy, whereupon all his Poſſeſſions were ſeiſed into the Kings hands.

49 Ed. 3. lib. aſſ pl 8. Where the Abbot of *Weſtminſter* had a Prior and Covent who were Regular, and *mort* in Law, yet the King by his Charter did divide that Corporation, and made the Prior and Covent a diſtinct and capable body to ſue and be ſued by themſelves.

St. de 25 Ed. 3. de Proviſoribus. It was Enacted by the whole Parliament, That as well they who obtained proviſions from *Rome*, as they that put them in execution ſhould be out of the Kings Protection, and that a man might do with them as enemies to the King, *&c.*

St. 25. Ed. 3. It was afterwards in open Parliament by grievous complaint of all the Commons of this Realm, ſhewed, that the grievances and miſchiefs aforeſaid did daily abound, to the great damage and deſtruction of this Realm, more then ever before, *viz.* that of late the Biſhop of *Rome* by procurement of Clerks, and otherwiſe had reſerved, and did reſerve daily to his collation generally and eſpecially, as well Archbiſhopricks, Abbeys, and Priories, as all other dignities, and other benefices of *England*, which were of the Advowry of people of the holy Church, and gave the ſame to Aliens as well as to Citizens, and taketh of all ſuch benefices the firſt fruits, and many other profits, and a great part of the treaſure of this Realm was carried away, and diſpended out of the Realm by the Purchaſers of ſuch graces; and alſo by ſuch privy reſervations, many Clerks advanced by the true Patrons, which peaceably holden their advancements by long time, were ſuddenly put out. Wherefore the ſaid Commons did pray the ſaid Soveraign the King, that ſince the right of the Crown of *England*, and the Law of the ſaid Realm was ſuch, that upon miſchiefs and damages which hapned to this Realm, he ought, and was bound of the accord of his people, therefore to provide remedy and Law, *&c.* The ſaid King *Ed.* 3. ſeeing the miſchiefs and damage aforeſaid, *&c.* and foraſmuch as he was bound by his Oath, to ſee the ſame to be kept as a Law of this Realm, though that by ſufferance and negligence it had been ſithence attempted to the contrary; alſo having regard to the grievous complaints made to him by his people in divers his Parliaments holden heretofore, willing to ordain remedy for the great damage and miſchiefs which had hapned, and daily did happen to the Church of *England* by the ſaid cauſe, by the aſſent of all the great men, and the commonalty of the ſaid Realm, to the honor of God, and profit of the ſaid Church of *England*, and of his Realm, did order and eſtabliſh, that the free election of all Archbiſhops, Biſhops, and all other dignities and benefices electory in *England*, ſhould hold from henceforth in the manner as they were granted by the Kings progenitors, and founded by the anceſtors of other Lords, and that all Prelates, and other people of the holy Church, which had Advowſons of any benefices of the Kings gift, or of any of his progenitors, or of other Lords and Donors, to do divine ſervice, and other charges thereof ordained, ſhould have their collations and preſentments freely, as they were enfeoffed by their donors; and in caſe that reſervation, collation, or proviſion be made by the Court of *Rome*, of any Archbiſhoprick, Biſhoprick, Dignity or other Benefice in diſturbance of the election, collation, or preſentments

ments aforeſaid: That at the time of the avoidance, that ſuch reſervations, collations, and proviſions ought to take effect, the ſaid *Ed.* 3. and his heirs ſhould have and enjoy for the ſame time, collations to the Archbiſhopricks, and other dignities elective, which is of his Avowry, ſuch as his Progenitors had before that free election was granted, ſince that the elections were firſt granted by the Kings progenitors upon a certain form and condition, as to demand licenſe of the King to chuſe, and after the election, to have his Royal aſſent, and not in other manner: which condition not kept, the King ought by reaſon to reſort to his firſt nature.

Upon complaint made by the great men and commons, it was aſſented and accorded by the King, great men and commons aforeſaid, that all the people of the Kings Allegiance, of what condition that they be, which ſhall draw any out of the Realm, in plea whereof, the conuſance pertaineth to the Kings Court, or of things whereof Judgement were given in the Kings Court, or which did ſue in any other Court, to defeat or impeach the Judgments given in the Kings Court, ſhould incur the danger of a *Premunire*. *St.* 27 *Ed.* 3.

Made to confirm the Acts made the 25. and 27. years of the ſaid Kings Reign; but thoſe that made thoſe good Laws againſt ſuch capital offenders, were curſed, defamed, and reproved by ſuch as maintained the uſurped juriſdiction of the Church of *Rome*, againſt which an eſpecial Act of Parliament was made by the King and his whole Realm, prohibiting thereby ſuch defamations and reproofs. *St.* 28 *Ed.* 3. *Cap.* 1. 2. 3. 4.

In the Reign of Richard *the ſecond.*

Againſt an Incumbent of the Church of *England*, another ſueth a proviſion in the Court of *Rome*, and there purſueth until he recovereth the Church againſt the Incumbent, and afterward brought an action of account againſt him, as receiver of divers ſums of money (which in troath were the oblations and offerings which the Incumbent had received) and the whole Court was of opinion againſt the Plaintiff, and thereupon he became *nonſuit*. 12 *Rich.* 2. *tit. Juriſdict.* 18.

It is declared by that Parliament, that the Crown of *England* hath been ſo free at all times, that it hath been in ſubjection to no Realm, but immediately ſubject to God, and none other, and that the ſame ought not in any thing touching the Regality of the ſame Crown, be to the Biſhop of *Rome*, nor the Laws and Statutes of this Realm, by him fruſtrated or defeated at his will, to the perpetual deſtruction of the King his Soveraignty, Crown and Regality, and of all his Realm. And the Commons in that Parliament affirmed, that the things attempted by the Biſhop of *Rome*, be declared againſt the Kings Crown, and his Regality, uſed and approved in the time of all his Progenitors. *St.* 16 *R.* 2. *Cap.* 5.

In the Reign of H. 4. *H.* 4. *fol.* 9.

It is reſolved that the Popes Collector, though he hath the Popes Bull to that purpoſe, hath no juriſdiction within this Realm, and there the Archbiſhops and Biſhops, &c. of this Realm, are called the Kings ſpiritual Judges.

By the ancient Laws Eccleſiaſtical of this Realm, no man could be convicted of Hereſie, being high Treaſon againſt the Almighty, but by the Archbiſhop, and all the Clergy of that Province, and after abjured thereupon, and after that newly convicted and condemned by the Clergy of that Province, in the general councel of the convocation: but the *St.* of 2 *H.* 4. *Ca.* 15. doth give the Biſhop of the Dioces power to condemn a Heretick, and that before that Statute, *Fitz. nat. B.* 269. *Cardries Caſe.*

Statute, he could not be committed to the ſecular power to be burnt, until he had once abjured, and was again relapſed to that or ſome other Hereſie; whereby it appeareth that the King by the conſent of Parliament, directed the proceedings in the Court Eccleſiaſtical, in caſe of Hereſie, and other matters more Spiritual: Well, but ſuppoſe the King did ſo, it proves nothing; for it is but matter of Fact: But it does not appear neither that this direction of the King by conſent of Parliament, did direct the proceedings in the Court in the conuſance of Hereſie, but onely for the puniſhment of Hereſie adjudged in the Eccleſiaſtical Court; and all men know that it is the Temporal, not Eccleſiaſtical power, (although it may be executed, or pronounced by Eccleſiaſtical perſons) that puniſheth men for Spiritual Crimes.

The Pope cannot alter the Laws of England.

11 *H.* 4. 37. 11 *H.*4 *fol.*69. 76. The Judges ſay that the Statutes which reſtrain the Popes proviſions to the Benefices of the Advowſons of Spiritual men, were made, for that the Spiritual durſt not in their juſt Cauſe, ſay againſt the Popes proviſions: ſo as thoſe Statutes were made in affirmance of the common Law.

14 *H.*4. *fol.* 14, *&c.* Excommunication made by the Pope, is of no force in *England*, and the ſame being certified by the Pope into any Court in *England*, ought not to be allowed, neither is any Certificate of any Excommunication available in Law, but that which is made by ſome Biſhop in *England*; for the Biſhops are by the common Laws, the immediate Officers, and Miniſters of Juſtice to the Kings Court in Cauſes Eccleſiaſtical.

14 *H.*4. 14. If any Biſhop do Excommunicate any perſon for a cauſe that belongeth not to him, the King may write to the Biſhop, and command him to aſſoyl, and abſolve the party.

St. 2. *H.*4. *Cap.* 3. If any perſon of Religion obtain of the Biſhop of *Rome* to be exempt from obedience regular or ordinary, he is in caſe of a *Premunire*, which is an offence, as hath been ſaid, *contra Regem, coronam, & dignitatem ejus.*

St. 6. *H.* 4. *Cap.* 1. Upon complaint of the Commons of the horrible miſchiefs, and damnable cuſtoms which there were introduced by the Church of *Rome*, that no perſon, Abbot or other, ſhould have any proviſions of Archbiſhoprick, or Biſhoprick which ſhould be void, till he had compounded with the Popes Chamber, to pay great and exceſſive ſums of money, as well for the firſt fruites of the ſame Archbiſhoprick or Biſhoprick, as for the other leſs ſervices in the ſaid Court, and that the ſaid ſums, or greater part thereof be paid beforehand, which ſums paſſed the double or treble of that that was accuſtomed of old time to be paid, &c. It was therefore Enacted, That they, and every of them that did pay greater ſums then had of old time been accuſtomed to be paid into the ſaid Chamber, ſhould incur the forfeiture of as much as they may forfeit to the King.

St. 7. *H.* 4. *Cap.* 6. No perſon, Religious or Secular, of what eſtate or condition that he were, by colour of any Bulls containing Priviledges, to be diſcharged of Tythes appertaining to Pariſh-Churches, Prebends, Hoſpitals, Vicaredges Purchaſed before the firſt year of King *R.* 2. or after, not executed, ſhould put in execution anyſuch Bills ſo Purchaſed, or any ſuch Bulls to be Purchaſed in time to come, upon pain of a *Premunire*. In the Reign of *Hen.* 5.

St. 3. *H.* 5. *Cap.* 4. In an Act of Parliament made in the third year of *Henry* 5. it is Declared, That whereas in the time of *H.* 4. father to the ſaid King, the ſeventh year of his Reign, to eſchew many diſcords and debates, and divers other miſchiefs which were like to ariſe and happen, becauſe of many proviſions then made,

or

or to be made by the Pope, and alſo of licence thereupon granted by the ſaid King, among other things, it was Ordained and Eſtabliſhed, That no ſuch Licence, or Pardon ſo granted before the ſame Ordinance, or afterwards to be granted, ſhall be available to any Benefice full of any Incumbent, at the day of the date of ſuch Licence or Pardon granted: Nevertheleſs, divers perſons having proviſions of the Pope, of divers Benefices in *England*, and elſewhere, and Licenſes Royal to execute the ſame Proviſions, have by colour of the ſame Proviſions, Licenſes and acceptations of the ſaid Benefices, ſubtilly excluded divers perſons of their Benefies, in which they had been incumbents by a long ſeaſon, of the collation of the very Patrons Spiritual, to whom duely made to their intent, to the final deſtruction and enervation of the Eſtates of the ſame Incumbents. The King, willing to avoid ſuch miſchiefs, hath Ordained and Eſtabliſhed, That all the Incumbents of every benefice of Holy Church, of the Patronage, Collation, or preſentation of Spiritual Patrons, may quietly and peaceably enjoy their ſaid Benefices, without being inquieted, moleſted, or any way grieved by any colour of ſuch proviſions, licencies, and acceptations; and that all licences and pardons, upon and by ſuch proviſions made in any manner, ſhould be void and of no valour: and if any feel himſelf grieved, moleſted, or inquieted in any wiſe from henceforth by any, by colour of ſuch proviſions, licenſes, pardons, or acceptations, that the ſame moleſters, grievers or inqueſters, and every of them, have, and incur the pains and puniſhments contained in the Statutes of Proviſors before that time. *H. 4.*

St. 2 H. 5. Cap. 7. Lollardy.

Was made for extirpation of Hereſie and Lollardy, whereby full power and authority was given to the Juſtices of Peace, and Juſtices of Aſſize, to enquire of thoſe that hold Errors, Hereſies, or Lollardry, and of their maintainers, &c. and that the Sheriff or other Officer, &c. may Arreſt and apprehend them. A man ſhould undertake a very hard task, that goes about to maintain, that all Humane Laws did never tranſgreſs their limits, nor encroach upon things that were not properly in their conuſance; and this Law ill ſuits with the temper of theſe times.

St. 2 H. 5. Cap. 1.

The King by conſent of Parliament, giveth power to Ordinaries to enquire of the Foundation, Erection, and Governance of Hoſpitals, other then ſuch as be of the Kings Foundation, and thereupon to make correction and reformation, according to the Eccleſiaſtical Law, nor could any other Power grant ſuch Ordinances.

In the Reign of Henry *the ſixth.*

8 H. 6. fol. 9.

Excommunication made and certified by the Pope, is of no force to diſable any man within *England*: and this is by the ancient Common Laws, before any Statute was made concerning forein Juriſdiction.

9 H. 6. fol. 26.

The King onely may grant or licence to Found a Spiritual Corporation.

1 H. 6. fol. 1.

The Pope wrote Letters in derogation of the King and his Regality, and the Church-men durſt not ſpeak againſt them; but *Humfrey* Duke of *Gloceſter*, for their ſafe keeping, put them into the fire.

In the Reign of Edward *the fourth.*

H. 7. f. 20. The Pope in the Reign of King *Ed.* 4. granted to the Prior of St. *Johns*, to have Sanctuary within his Priory, and this was pleaded, and claimed by the Prior; but it was resolved by the Judges, that the Pope had no power to grant any Sanctuary within this Realm, and therefore by Judgement of Law it ought to be disallowed.

9 Ed. 4. 3. There it appeareth that the opinion of the Kings Bench had been oftentimes, that if one Spiritual person, sueth another Spiritual person in the Court of *Rome*, for a matter Spiritual, where he may have remedy before his Ordinary, that is, of the Bishop of the Diocess within the Realm, *Qui trahit ipsum in placitum extra regnum*, incurreth the danger of a Premunire, a haynous offence, being *contra Legiantiæ suæ debitum, in contemptum Domini Regis, & contra coronam & dignitatem suam.*

9 Ed. 4. 28. In the Kings Court of Record, where Felonies are determined, the Bishop or his Deputy ought to give his attendance, to the end that if any man that is Indicted or Arraigned for Felony, do demand the benefit of his Clergy, that the Ordinary may inform the Court of his sufficiency, or insufficiency, that is, whether he can read as a Clerk, or not, whereof notwithstanding the Ordinary is not to judge, but a Minister to the Kings Court; and the Judges of that Court are to judge of the sufficiency or insufficiency of the party, whatsoever the Ordinary do inform them, and upon due examination of the party, may give judgement above the Ordinaries information: For the Kings Judges, are Judges of the Cause, whether the Ordinary be a Judge of *Legit*, or *non Legit*, matters not much: for if he be Judge, or Minister, no doubt but he is the Kings Judge, or Minister. And I my self have seen Chief Justice *Littleton* overrule the Ordinary in the Case of one *Brudbank*, after the Ordinaries Deputy had pronounced *legit ut Clericus*, and give sentence of death upon him for his *non legit*, and he was hanged.

The Popes Excommunication is of no force within the Kingdom of England.

12 Ed. 4. f. 16. In the Reign of King *Ed.* 4. a Legat came from the Pope to *Calis*, to have come into *England*, but the King and his Councel would not let him come into *England*, until he had taken an Oath that he should attempt nothing against the King or his Crown: And so the like was done to another of the Popes Legates. And this is so reported, 1 *H.* 7. *fol.* 10.

In the Reign of Richard *the third.*

It is resolved by the Judges, that a Judgement of Excommunication in the Church of *Rome*, shall not prejudice any man within *England* at the Common Law.

In the Reign of Henry *the seventh.*

1 H. 7. fol. 10. The Pope had Excommunicated all persons whatsoever, who had bought Alume of the *Florentines*; and it was resolved by all the Judges, that the Popes Excommunication ought not to be obeyed, or to be put in execution within the Realm of *England*.

It

It was enacted, ordained and eſtabliſhed, by the advice and aſſent of the Lords Spiritual and Temporal, and the Commons in the ſaid Parliament aſſembled, That it be lawful to all Archbiſhops and Biſhops, and other Ordinaries having Epiſcopal juriſdiction, to puniſh & chaſtiſe ſuch Prieſts, Clerks, and Religious men being within the bounds of their juriſdiction, as ſhall be committed afore them by examination, and lawful proof requiſite by the Law of the Church, of Advoutry, Fornication, Inceſt, or any other fleſhly incontinency, by committing them to ward or priſon, there to abide in ward until ſuch time as ſhall be thought to their diſcretions convenient for the quality and quantity of their treſpaſs. And that none of the Archbiſhops, Biſhops or Ordinaries aforeſaid be thereof chargeable, of, to, or upon any action of falſe or wrongful Impriſonment, but that they be utterly diſcharged thereof in any of the caſes aforeſaid by vertue of this Act.

The King is a mixt perſon, becauſe he hath Eccleſiaſtical and Temporal juriſdiction. 10 *H.* 7. 18.

By the Eccleſiaſtical Laws allowed within this Realm, a Prieſt cannot have two Benefices, nor a Baſtard can have a Prieſt: But the King may by his Eccleſiaſtical power and juriſdiction diſpence with both theſe, becauſe they be *malæ prohibita*, but not *malæ per ſe*. 11 *H.* 7. 12.

How far Henry *the Eighth exerciſed his Eccleſiaſtical Juriſdiction.*

IT was enacted, That if any perſon or perſons at any time after the firſt of *April* 1530. contrary to the Act, ſhould procure and obtain at the Court of *Rome*, or elſwhere, any Licence or Licences, Union, Toleration, or Diſpenſation to receive or take any more Benefices with cure, then was limited by the ſaid Act; or elſe at any time after the ſaid day ſhould put in execution any ſuch Licence, Toleration, or Diſpenſation, before that time obtained contrary to the ſaid Act; That then every ſuch perſon or perſons ſo after the ſaid day, ſuing for himſelf, or receiving or taking ſuch Benefice by force of ſuch Licence or Licences, Union, Toleration, or Diſpenſation, that is to ſay, the ſame perſon or perſons only, and no other, ſhould for every ſuch default incur the danger, pain and penalty of Twenty pounds ſterling, and ſhould alſo loſe the whole profits of every ſuch Benefice or Benefices, as he receives or takes by force of any ſuch Licence or Licences, Union, Toleration or Diſpenſation. And that if any perſon or perſons did procure or obtain at the Court of *Rome*, or elſwhere, any manner of Licence or Diſpenſation to be nonreſident at their Dignities, Prebends or Benefices, contrary to the ſaid Act; that then every ſuch perſon putting in execution any ſuch Diſpenſation or Licence for himſelf, from the ſaid firſt of *April* 1530. ſhould run and incur the penalty, damage, and pain of Twenty pounds ſterling, for every time ſo doing to be forfeited and recovered; and yet ſuch Licence or Diſpenſation ſo procured, or to be put in execution, to be void and of none effect. 21 *H.* 8. *cap.* 13.

It was enacted, That no perſon from thenceforth cited or ſummoned, or otherwiſe called to appear by himſelf or herſelf, or by any Procurator, before any Ordinary, Archdeacon, Commiſſary, Official, or any other Judge Spiritual out of the Dioceſe, or peculiar Juriſdiction, where the perſon 23 *H.* 8. *cap.* 9.

which ſhall be cited, ſummoned, or otherwiſe (as is aboveſaid) called, ſhall be inhabiting and dwelling, at the time of awarding or going forth of the ſame citation or ſummons: Except it be for, in, or upon any of the caſes, or cauſes hereafter written, *viz.* for any Spiritual offence or cauſe committed or done, or omitted, forſtowed or neglected to be done contrary to right and duty, by the Biſhop, Archdeacon, Commiſſary, Official, or other perſon having Spiritual juriſdiction, or being a Spiritual Judge, or by any other perſon or perſons within the Dioceſe, or other Juriſdiction whereunto he or ſhe ſhall be cited, or otherwiſe lawfully called to appear and anſwer: And that every Spiritual Judge offending contrary to the purport of this Act, ſhall forfeit Ten ſhillings ſterling, the one half to the King, the other half to any perſon that will ſue for the ſame in any of the Kings Courts; in which action no protection ſhall be allowed, nor Wager of Law or Eſſoine be admitted.

Stat. 24. H. 8. cap. 12.

In which, Sir *E. Coke (Cawdries caſe)* ſays, there were twenty four Biſhops, twenty nine Abbots and Priors; for ſo many then were Lords of Parliament. It is declared, That where by divers ſundry old authentique Hiſtories and Chronicles, it was manifeſtly declared and expreſſed, that this Realm of *England* is an Empire, and has been ſo accounted in the world, governed by one Supreme Head and King, having the dignity and Royal eſtate of the Imperial crown of the ſame, unto whom a Body Politique compact of all ſorts and degrees of people, divided in terms, and by names of Spirituality and Temporality, been bound and ought to bear next to God, a natural and humble obedience; He being alſo inſtitute and furniſhed by the goodneſs of God, with plenary, whole and entire power, preheminence, authority, prerogative, and juriſdiction, to render and yield juſtice and final determination to all manner of folk, reſiants or ſubjects within this his Realm, in all cauſes, matters, debates and contentions happening to occur, inſurge or begin within the limits thereof, without reſtraint or provocation to any Forein Princes or Potentates in the world: The body Spiritual whereof having power, when any cauſe of Law Divine happened to come in queſtion, or of Spiritual Learning, that it was declared, interpreted and ſhewed by that part of the ſaid body Politique called the Spiritual body then, being uſually called the Engliſh Church, which always hath been reputed, and alſo found of that ſort, that both for knowledge, integrity, and ſufficiency of number, it has been always thought, and was alſo at that houre ſufficient and meet of it ſelf, without the intermedling of any exterior perſon or perſons, to declare and determine all ſuch doubts, and to adminiſter all ſuch offices and duties, as to the the rooms Spiritual did appertain. For the due adminiſtration whereof, and to keep them from corruption and ſiniſter affection, the Kings noble Progenitors and Anteceſſors of the Nobles of this Realm, have ſufficiently endowed the ſaid Church both with honor and poſſeſſions. And the Laws Temporal for trial of Property of Lands and Goods, and for the conſervation of the people of this Realm in unity and peace without rapine and ſpoil, was, and yet is adminiſtred, adjudged, and executed by ſundry Judges and Miniſters of the other part of the ſaid Body Politique, called the Temporalty: And both their Authorities and Juriſdictions do conjoin together in the due adminiſtration of Juſtice, the one to help the other.

This Statute does moreover affirm, that *Ed.* 1. *Ed.* 3. *Rich.* 2. *H.* 4. and

and other Kings did make divers Laws, Ordinances, Statutes, &c. for the entire and ſure conſervation of the prerogatives, liberties and preheminences of the ſaid Imperial Crown, and of the Juriſdictions Spiritual and Temporal of the ſame, to keep it from the annoyance as well from the See of *Rome*, as from other Forein Potentates, and does make all Cauſes determinable by any Spiritual juriſdiction, to be adjudged within the Kings authority.

All Firſt-fruits, and all contributions to the See of *Rome* by any Biſhop, were forbidden upon pain of forfeiture of all the goods and cattals for ever, and all the Temporal lands and poſſeſſions of every Archbiſhoprick or Biſhoprick, during the time that he or they who offend contrary to the ſaid Act, ſhall poſſeſs and enjoy the ſaid Archbiſhoprick or Biſhoprick. And that if any preſented to the See of *Rome* by the King to a Biſhoprick, and he be there delayed, he may be conſecrated by an Archbiſhop in *England*; and that an Archbiſhop preſented to the See of *Rome* to be there conſecrated, and there letted, may be conſecrated by two Biſhops of *England*. And becauſe the Pope hereof informed, did not redreſs and reform the ſaid exactions, nor give anſwer to the Kings mind; therefore the ſaid Statute did prohibit any man to be preſented to the See of *Rome* for the dignity of an Archbiſhop or Biſhop, or that any Annates or Firſt-fruits be paid to the Biſhop of *Rome*; and that upon the avoidance of any Archbiſhoprick or Biſhoprick, the King, his heirs and ſucceſſors may grant to the Prior and Covent, or Dean and Chapiter of the Cathedral Churches or Monaſteries, where the See of ſuch Archbiſhoprick or Biſhoprick ſhall happen to be void, a Licence under the Great ſeal, as of old time hath been accuſtomed, to proceed to Election of an Archbiſhop or Biſhop of the See ſo being void, with a Letter miſſive containing the name of the perſon which they ſhall elect and chooſe; and for default of ſuch Election, the King by his Letters Patents may nominate an Archbiſhop or Biſhop; and that every Archbiſhop & Biſhop to whoſe hands any ſuch preſentment or nomination ſhall be directed, ſhall with ſpeed inveſt and conſecrate the perſon nominated and preſented by the King, his heirs and ſucceſſors. And if any Archbiſhop or Biſhop, Prior and Covent, Dean and Chapiter, ſhall for the ſpace of twenty days next after ſuch Licence or Nomination come to their hands, neglect, or ſhall execute any Cenſures, Excommunications, Interdictions, &c. contrary to the execution of any thing contained in this Act, that then they incur the penalty of a *Præmunire*. *St.25.H.8. cap.20.*

An act concerning the exoneration of the Kings ſubjects from exactions and impoſitions before that time paid to the See of *Rome*, and for having Licences and Diſpenſations within this Realm, without ſuing further for the ſame. *St.25. H. 8. cap.21.*

The King ſhall be reputed Supreme Head of the Church of *England*, and have authority to reform and redreſs all Errors, Hereſies, and abuſes in the ſame. *St.26.H.8. cap.1.*

Every Archbiſhop and Biſhop diſpoſed to have a Suffragan, may elect diſcreet Spiritual perſons, being learned, and of good converſation, and preſent them under their ſeals to the King, making humble requeſt to his Majeſty to give to one of the two ſuch title, name, ſtile and dignity of Biſhop of ſuch of the Sees as the King ſhall think fit; and that every ſuch perſon to whom the King ſhall give any ſuch ſtile and title of the Sees abovenamed, *viz.* the Towns of *Thetford*, *Ipſwich*, *Colcheſter*, *Dover*, *Gilford*, *Southampton*, *Taunton*, *26 H.8. c.14.*

Taunton, Shaftsbury, Molton, Marlborough, Bedford, Leicester, Gloceſter, Shrewſbury, Briſtow, Penrith, Bridgwater, Nottingham, Grantham, Hull, Huntington, Cambridge, and the Towns of *Perth* and *Barwick*, S. *Germans* in *Cornwal*, and the *Iſle of Wight*, ſhall be called Biſhop-Suffragan of the ſame See, whereunto he ſhall be named; and that every Archbiſhop and Biſhop, for their own peculiar Dioceſe, may and ſhall give to every ſuch Biſhop Suffragan ſuch Commiſſions as have been accuſtomed for Suffragans heretofore to have, or elſe ſuch Commiſſions as by them ſhall be thought requiſite, reaſonable and convenient; And that no Suffragan ſhall uſe any ordinary juriſdiction, or Epiſcopal power, otherwiſe, nor longer time, then ſhall be limited by ſuch Commiſſion, upon pain of the penalties mentioned in the Statute of Proviſions made the 16. of *Rich.* 2.

Stat. 27 *H.* 8. *cap.* 15. The King ſhall have authority to name Thirty two perſons, ſixteen Spiritual, and ſixteen Temporal, to examine the Laws and Conſtitutions heretofore made according to the Statute of 25 *H.* 8. 9. But no Laws or Conſtitutions ſhall be made without the Kings aſſent, nor contrary to the Kings Prerogative, or the Laws of the Land.

28 *H.* 8. *c.* 10. If any perſon ſhall extoll the Authority of the Biſhop of *Rome*, he ſhall incur the penalty of a *Præmunire*, provided *Anno* 16 *Ric.* 2. Every Eccleſiaſtical and Lay-Officer ſhall be ſworne to renounce the ſaid Biſhop and his Authority, and to reſiſt it to his power; and to repute any Oath taken in maintenance of the ſaid Biſhop or his Authority, to be void: And the refuſing of the ſaid Oath, to be Treaſon.

28 *H.* 8. *c.* 16. Makes all Bulls and Diſpenſations from the Biſhop or See of *Rome* to any of the Subject of this Realm, void.

31 *H.* 8. *c.* 9. The King may nominate ſuch number of Biſhops, Sees for Biſhops, Cathedral Churches, and endow them with ſuch poſſeſſions as he will.

31 *H.* 8. *c.* 14. called the Statute of the Six Articles. 1. If any perſon by word, writing, printing, ciphering, or otherwiſe, do preach, teach, diſpute, or hold opinion, That in the bleſſed Sacrament of the Altar under form of bread and wine (after the conſecration thereof) there is not really the natural body and blood of our Saviour Jeſus Chriſt conceived of the Virgin *Mary*; or that after the ſaid conſecration there remains any ſubſtance of bread or wine, or any other ſubſtance, but the ſubſtance of Chriſt God and man: Or that in the fleſh under the form of bread, is not the very blood of Chriſt: Or that with the blood under the form of wine, is not the very fleſh of Chriſt, as well apart, as though they were both together: Or affirm the ſaid Sacrament to be of other ſubſtance then is aforeſaid; Or deprave the ſaid bleſſed Sacrament: Then he ſhall be adjudged a Heretick, and ſuffer death by burning, and ſhall forfeit to the King all his lands, tenements, hereditaments, goods and chattels, as in caſe of High Treaſon. 2. Or if any perſon preach in any Sermon or Collation openly made, or teach in any Common School or Congregation, or obſtinately affirm or defend, That the Communion of the bleſſed Sacrament in both kinds, is neceſſary for the health of mans ſoul, or ought to be adminiſtred in both kinds: Or that it is neceſſary to be received by any perſon (other then by Prieſts) being at Maſs, and conſecrating the ſame. 3. Or that any man, after the Order of Prieſthood received, may marry or contract matrimony. 4. Or that any man or woman, which adviſedly hath vowed or profeſſed, or ſhould vow or profeſs chaſtity or widowhood, may marry or contract marriage. 5. Or that Private Maſſes be not lawful, or

not

not laudable, or should not be used, or be not agreeable to the Laws of God. 6. Or that Auricular confession is not expedient, and necessary to be used in the Church of God; He shall be adjudged, suffer death, and forfeit lands and goods as a Felon. If any Priest, or other man or woman, which advisedly hath vowed chastity or widowhood, do actually marry or contract matrimony with another; Or any man which is, or hath been a Priest, do carnally use any woman, to whom he is, or hath been married, or with whom he hath contracted matrimony, or openly be conversant or familiar with any such woman; both man and woman shall be adjudged Felons. Commissions shall be awarded to the Bishop of the Diocese, his Chancellor, Commissary, and others, to enquire of the Heresies, Felonies, and offences aforesaid: And also Justices of Peace in their Sessions, and every Steward, Under-Steward, and Deputy of Steward, in their Leets or Law-day, by the oath of twelve men, have authority to enquire of the Heresies, Felonies, and offences aforesaid.

See the 7. *Chap.* of *B. Bramhalls Just Vindication of the Church of England*, where he endeavours to shew that not only the Emperor, the King of *France*, nay, and the King of *Spain*, have in effect done the same things with *Henry* the Eighth, upon occasion, or at least plead for it, although for their interests they have not continued the exercise of their Jurisdiction, as the Kings of *England* have done.

A short view or reflexion upon Henry *the Eight, and his Reformation.*

K. H. 8. a zealous defender of the Pope and Papacy.

How zealous a Defender of the Pope, and See of *Rome*, *Henry* the Eight was in the beginning of his Reign, is evident by his book written against *Martin Luther*: For, not being born *Henry* the seventh's eldest son, his Father being a wondrful frugal Prince, and observing good natural parts in him, bred him up in literature, and destinated him to the Archbishoprick of *Canterbury*, as being the cheapest, and highest preferment he could give him. But his elder brother being dead, and after him his father; The King esteeming it a great honor to imploy himself in so famous a controversie as was then maintained by the Wits of Christendom, in defence and opposition of the Church of *Rome*, wrote a book of the *Seven Sacraments*, defending also the Papacy, and oppugned the Doctrine of *Luther*. This thing was so grateful to the Pope, that *Leo* 10. honored him with the Title of *Defender of the Faith*. But after he had been married to his brothers wife above twenty years, and inflamed with lustful affection to *Anne Bullein* a Paragon and Minion of the Court, he became (he said) troubled in conscience for having married his brothers wife; and therefore desired that the Pope would examine the case, and satisfie his scruple of conscience. (It is a very remarkable thing, that this ungodly Dispensation of *Julius* 2. for *H.* 8. his marrying with his brothers wife, should be the cause of the King and Kingdoms defection from the Papacy under *Clement* 7.) The Pope, to satisfie the King, gave the Cardinals *Wolsey* and *Campeius* a power Legatine to hear and determine the validity, or invalidity of the marriage; but the Queen refusing to submit to their determination, appealed from them to the Pope. The Pope had now a Wolf by the ears, whom he could neither keep, nor well let go: For, in pronouncing the marriage void, he feared to incense *Charls* the Fifth (being Nephew to Queen *Katherine*, and the most potent Prince in Christendom) and in confirming it, he feared to lose *Henry* the then most

From what cause the King became estranged from the Pope.

most beloved Son of the Church, and great Defender of the Papacy, not only in writing, but also in joining with and assisting the French King *Francis* the First, for freeing him from captivity, being a prisoner under *Charls*. The Pope therefore desires the advantage of time, and proceeds slowly towards a determination: The King as impatient in his desires, expects a sentence from the Pope; which not being to be had, he procures Instruments from the Universities of *Cambridge*, *Oxford*, and *Paris*, together with the Opinion of Learned men, That the marriage with his Brothers wife, was contrary to the Law of God, and void. The King not expecting the Popes sentence, *anno* 1533. marries his beloved *Anne*, (but such love is usually too hot to hold, for about two years after he cut off her head:) yet the King did not wholly renounce the Papacy, but still expecting the Popes sentence.

The slow proceedings of the Pope.

The Pope, for the reasons aforesaid, not desiring to end the business, but to expect advantage from time, reduces the matter into several points or heads, which he would have particularly disputed; and at the time of the Kings marriage with *Anne*, was not got further then the article of *Attentates*, in which the Pope gave sentence against the King, that it was not lawful for him to put away his wife by his own authority, without the Ecclesiastical Judge. For which cause the King in the beginning of 1534. denied the Pope his obedience, commanding his Subjects not to pay any money to *Rome*, nor to pay the ordinary Peter-pence. This infinitely troubled the Court of *Rome*, and they daily consulted of a remedy: Some thought to proceed against the King with censures, and to interdict all Christian nations all commerce with *England*; But the moderate counsel pleased best, to temporise with him, and to mediate a composition by the French King. K. *Francis* accepted the charge, and sent the Bishop of *Paris* to *Rome*, to negotiate a Pacification with the Pope; where they still proceeded in the cause gently, and with resolution not to come to censures, if the Emperor did not proceed first, or at the same time with his forces. They had divided the cause into twenty three articles, and then they handled whether Prince *Arthur* had had carnal conjunction with Queen *Katherine*; in this they spent time till *Midlent* was past, when the 19. of *March* news came, that a Libel was published in *England* against the Pope and the whole Court of *Rome*, and besides, a Comedy had been made in presence of the King and Court, to the great disgrace and shame of the Pope, and every Cardinal in particular. For which cause all being inflamed with choler, ran headlong to give sentence, which was pronounced in the Consistory the 24. of the same month, That the marriage between *Henry* and *Katherine* was good; that he was bound to take her to wife, and that in case he did not, he should be excommunicated.

His rash censure repented of,

But the Pope was soon displeased with this precipitation: For, six days after, the French Kings letters came, That the King was content to accept the sentence concerning *Attentates*, and to render obedience, upon condition that the Cardinals whom he mistrusted, should not meddle in the business, and that persons not suspected should be sent to *Cambray* to take information; and the King had sent his Proctors before, to assist in the Cause at *Rome*. Wherefore the Pope went about to devise some pretence to suspend the precipitate sentence, and again to set the cause on its feet.

and

Utterly loses the obedience of *England*.

But the King, so soon as he had seen it, said, It was no matter; for the Pope should be Bishop of *Rome*, and himself sole Lord of his Kingdom:

And

And that he would do according to the antient manner of the Eaſtern church, not leaving to be a good Chriſtian, nor ſuffering the *Lutheran* Hereſie, or any other to be brought into his Kingdom.

From that time forward, *Henry* the Eighth, of a zealous Aſſertor of the Papacy both by pen and purſe, became the firſt, and greateſt Oppoſer of it, of all the Weſtern Chriſtian Princes; (for the Eaſtern Chriſtian Princes, except ſometimes the Emperors of *Greece*, and the Kings of Holy Land, did ſeldom or never ſubmit to the Papacy in her Spirituals) yet did he afterwards ſeek to be reconciled to the Pope, even by means of his Nephew *Charls* the Fifth. Nor were the Popes much behind hand with him: For beſides *Clement's* petty Excommunication, *Paul* the Third, *Anno* 1538. thundred out ſuch a terrible Excommunication againſt him, as the like was never heard of; which deprived him of his kingdom, and his adherents of whatſoever they poſſeſſed, commanding his Subjects to deny him obedience, and Strangers to have no commerce in the kingdom; and all to take arms againſt, and perſecute both him and his followers, granting them their ſtates and goods for their prey, and their perſons for ſlaves. But the Popes anger ended in words; whereas the Kings deeds took place againſt the Pope.

No anger loſt between the King & Pope.

But what there was in all the Kings reign, which might be called Reformation, I do not underſtand: For, whatſoever the King took from the Pope (except Peter-pence) he aſcribed to himſelf. If the Pope would be Head of the Catholique Church, the King would be Head of the Church of *England:* If the Pope challenged *Annates* and Firſt-fruits of the Biſhops and Clergy, the King would do no leſs: If the Pope did give Abbots and Priors power, being Eccleſiaſtical perſons, to make divers Impropriations to their benefit, the King will take a power to take them all away, and convert them into Lay-fees, and incorporate them ſo into particular mens eſtates, that they ſhall never return to the Church more. Nor had he any love or deſire of Reformation of the Church, but only to the Church-lands; for, all the Rites, Ceremonies, and Religion of the Church of *Rome* was continued, and that with ſuch bloody cruelty, that a Stranger going over *Smithfield* one day, and ſeeing two men there executed, one for denying the Kings Headſhip of the Church, and another for ſubſcribing to the Six Articles, cryed out, *Bone Deus, quomodo hic agunt vivi! hic ſuſpenduntur Papiſtæ, ibi comburuntur Antipapiſtæ.* And ſo zealous did he continue herein, that Pope *Paul* the Third, after he had fulminated ſo dreadfully againſt him, propoſed him for an Example to be imitated by *Charls* the Fifth.

What was the Kings Reformation.

Hiſt. Conc. Trid. fol. 90.

Although ſuch was the temper of this Prince, that he never ſpared man in his rage, woman in his luſt, nor any thing which might be called ſacred in his avarice; yet ſo abſolute was he, that his Divorce was atteſted by both the Univerſities at home, beſides that at *Paris* abroad; his freeing himſelf and the Nation from the juriſdiction of the Pope, was not only aſſented to by a Synod and Convocation of all the Clergy of *England*, but the Engliſh and Iriſh Nobility did make their ſubmiſſions by an Indenture to Sir *Anthony Sellinger*, then chief Governor of *Ireland*, wherein they did acknowledge King *Henry* to be their lawful Soveraign, and confeſſed the Kings Supremacy in all cauſes, and utterly renounced the Pope. But Divorce, baniſhing the Papal authority, Diſſolution of Abbies, and all, were eaſily paſſed and aſſented to in Parliament.

The exclusion of the Papal juriſdiction, was an act of the King, Kingdom, and Church of *England*.

Bram. Vind. of the Church of England, p. 43.

But

The Pope was more unjuſt in his cenſures then the King was in excluding the Papal juriſdiction.

But whatſoever the King were otherwiſe, yet ſure the Popes paſſion againſt him carried them to greater extravagancies and exorbitancies, then were on his part againſt them. For, ſuppoſe that the Pope had *de facto* the Inveſtitures of Biſhops, Peter-pence, Annates and Firſt-fruits paid them, and did exerciſe a juriſdiction over all the Church and Clergy; yet no queſtion, all theſe things were by the grants and permiſſion of precedent Kings; and if Kings may grant and permit theſe things, then what hinders but that they may recall them? for, *Cujus eſt velle, ejus eſt nolle.* Beſides, we have already ſhewed, that although there were not that bitter perſonal ſpite between the Kings of *England* and and the Popes formerly, as was between *Henry* 8. and *Clement* 7. and *Paul* 3. yet did many of them aſcribe as little to the Pope, as *Henry* did. But for a Pope to deprive a Chriſtian Prince of his kingdom, over whom he had no manner of right; his Adherents, of whatſoever they poſſeſſed; to command his Subjects to deny their obedience to their Soveraign, and Strangers not to have any commerce in the kingdom; and all to take arms againſt him and his followers, granting them their eſtates and goods for a prey, and their perſons for ſlaves, is ſo unlike to the example and precept of S. *Peter* (whom they pretend to ſucceed) who not only ſuffered death under Temporal power, but, inſpired by God, does command ſo expreſly obedience to Kings, not as ſubordinate to himſelf, but as ſupreme: And of our Saviour himſelf, who both ſuffered himſelf under Temporal power, and paid tribute to *Caeſar*, and took not away, but fulfilled the Moral Law, which commands obedience to Princes and Higher powers, and whoſe kingdom was not of this world; that ſure no Turk or Infidel was ſo much an enemy to Chriſtians, or indeed rather to mankind, as to have deſired it.

1 Pet. 2. 13.

The ſtate of the Church, and of the Eccleſiaſtical Laws made by Edward *the ſixth.*

THe time of this Kings reign, being a Child, (and therefore woful) and of his Father, were perillous days: The Father in his Laws ſcarce ever took advice but from his paſſion, luſt, or avarice; the Son (although a Prince of infinite hope and goodneſs, yet) wanting the authority and reputation requiſite in a Soveraign, was either not able to reſtrain, or elſe perſwaded it was beneficial, to give reins to a company of Sacrilegious Harpies, and Courtiers, to make a total prey not only upon all Colledges, Free-Chappels, Chantries, and all their Lands, except them of the Univerſities and ſome few other, which by the Statute of 1 *Ed.6. cap.*14. were given to the King upon ſpecious pretences; but the Lands of the Biſhops generally became a prey unto them. So much worſe is it for every thing to be lawful, then that any thing ſhould be Law.

Camb. pref. Eliz. Reg. & Life of Ed.6.

An.1,Ed.6.c.6. It was enacted, That if any man ſpake irreverently or contemptuouſly of the Sacrament of the Altar, he ſhould be impriſoned and fined at the Kings will and pleaſure; and that Juſtices of Peace might enquire of offenders: Yet ſhould not the perſon offending be arraigned or tryed, unleſs the Biſhop of the Dioceſe, or his Chancellor, or Deputy learned were required to be at the Quarter-Seſſions; to which purpoſe a new Writ was made. *Rex &c. Epiſc. L. ſalutem. Præcipimus tibi, quod tu, Cancellarius tuus, vel alius*

Depu-

deputatus tuus ſufficienter eruditus, ſitis cum Juſticiariis noſtris ad pacem in com. noſtro B. conſervand. aſsignat. apud D. tali die, ad ſeſsionem noſtram, tunc & ibidem tenend. ad dand. conſilium & adviſament. eiſdem Juſtitiariis noſtris ad pacem, ſuper arraiment & deliberationem offendet: contra Formam ſtatuti concernend. ſacroſanctum Sacramentum Altaris. And by this Satute it was Enacted, that the Sacrament ſhould be delivered to the people under both Kindes, *viz.* of Bread and Wine.

From thenceforth no *Conge deſlier* ſhall be granted, nor any Election ſhall be made of any Archbiſhop or Biſhop, by the Dean and Chapter; but when any Archbiſhoprick or Biſhoprick ſhall be voided, the King by his Letters Patents may confer the ſame to any perſon whom he ſhall think meet, &c. All ſummons, citations, and other proces Eccleſiaſtical, ſhall be made in the name, and with the ſtile of the King, as in the Writs of the common Law, and the teſt thereof ſhall be in the name of the Archbiſhop, or Biſhop, &c. All perſons that have the exerciſe of Eccleſiaſtical Juriſdiction, ſhall have in their Seals of Office, the Kings Arms, with certain characters under them for the knowledge of their dioces; but the Archbiſhop of *Canterbury* ſhall uſe his own Seal, and his own name in all faculties and diſpenſations. *An. 1 Ed. 6. Cap. 2.*

A man ſpeaking againſt the Kings Headſhip of the Church, ſhall, being thereof attaint or convict, forfeit all his Goods and Chattels to the King, and ſuffer impriſonment during the Kings will and pleaſure for the firſt offence: and for the ſecond offence, forfeit to the King the whole iſſues and profits of all his Lands, and all his Goods and Chattels, and ſuffer perpetual impriſonment: and for the third offence, ſhall be adjudged a Traytor, and ſuffer death, and forfeit all his Goods and Chattels, Lands and Tenements, as in caſes of High Treaſon. And it ſhall be deemed Treaſon for any, by Printing, Writing, or Deed, to affirm the King not to be Head of the Church. *An. 1 Ed. 6. Cap. 12.*

An Act for uniformity of Service, and adminiſtration of Sacraments; being before divers, and different, *viz.* of *Sarum*, of *York*, of *Bangor*, and of *Lincoln*; and divers and ſundry forms and faſhions were uſed in Cathedrals, and Pariſh-Churches of *England* and *Wales*, as well concerning Mattens, or Morning Prayer, and the Evening Song, as alſo concerning the holy Communion, commonly called the Maſs, with divers and ſundry rites and ceremonies concerning the ſame, and in the adminiſtration of the Sacraments of the Church: The Statute does inflict upon every Parſon, Vicar, or other whatſoever Miniſter that ought or ſhould ſay or ſing the ſaid Common Prayer, mentioned in the ſaid Book, Entituled, the Book of Common Prayer, and Adminiſtration of the Sacraments, and other rites and ceremonies of the Church, after the uſe of the Church of *England*, and ſhall refuſe it, or uſe any other form, or ſhall Preach, Declare, or ſpeak any thing in derogation of the ſaid Book, or any thing contained therein, and be thereof lawfully convict by a Jury of twelve men, or by confeſſion, ſhall forfeit to the King for the firſt offence, the profit of all his Spiritual benefices and promotions ariſing in a whole year, and ſuffer impriſonment for ſix moneths, without bail or mainprize. And for the ſecond offence, ſhall ſuffer a years impriſonment, and be deprived of all his ſpiritual promotions; and for the third offence, ſhall ſuffer impriſonment during life. It was Enacted that the Juſtices of *Oyer* and *Terminer*, and Juſtices of Aſſize, ſhould have power and authority in the open *An. 2 & 3 Ed. 6 Cap. 1.*

and general Seſſions, to hear and determin the offences committed againſt this Act; yet ſo that every Archbiſhop, and Biſhop had liberty to joyn and aſſociate himſelf to the ſaid Juſtices of *Oyer* and *Terminer*, or to the Juſtices of Aſſize.

An. 3. & 4. Ed. 6. Cap. 10. All books called *Antiphoners*, *Miſſals*, *Grails*, *Portuaſſes*, *Primers* in *Latine* or in *Engliſh*, and other books uſed for ſervice in the Church (ſaving ſuch as are ſet forth by the Kings Authority) ſhall be clearly aboliſhed. All Images, graven, painted, or carved, taken out of any Church or Chappel, and the aforeſaid books ſhall be defaced, or openly burnt.

Anno 3 & 4. Ed. 6. Cap. 12. Such form and manner of making and conſecrating of Archbiſhops, and Biſhops, Prieſts and Deacons, and other Miniſters of the Church, as by ſix Prelates, and ſix other men of this Realm, learned in the Law of God, by the King to be appointed and aſſigned, or by moſt of the number of them ſhall be deviſed for that purpoſe, and ſet forth under the Great Seal before the firſt of *April* next coming, ſhall be lawfully exerciſed and uſed, and none other.

An. 5. & 6. Ed. 6. Cap. 1. An Act for uniformity of Prayer, and adminiſtration of the Sacraments in the Engliſh Tongue; and that every perſon upon every Sunday and Holiday (having no lawful cauſe to be abſent) do reſort to his Pariſh-Church; and they which refuſe, are to be puniſhed by the cenſure of the Church: and that all perſons who ſhall be at any other common prayer or Sacraments, ſhall for the firſt offence, ſuffer Impriſonment for ſix moneths, without bail or mainpriſe, for the ſecond Impriſonment during a whole year, and for the third Impriſonment during life.

An. 5. & 6. Ed. 6. Cap. 2. All the Sundays of the year, the Feaſt of our Lord Jeſus, his Circumciſion, of the Epiphany, of the Purification of the bleſſed Virgin, of St. *Matthew* the Apoſtle, of the Annunciation of the bleſſed Virgin, of St. *Mark* the Evangeliſt, of St. *Philip* and *Jacob* the Apoſtles, of the Aſcenſion of our Lord Jeſus Chriſt, of the Nativity of St. *John* the Baptiſt, of St. *Peter* the Apoſtle, of St. *James* the Apoſtle, of St. *Barthelomew* the Apoſtle, of St. *Matthew* the Apoſtle, of St. *Michael* the Archangel, of St. *Luke* the Evangeliſt, of St. *Simon* and *Jude* the Apoſtles, of All Saints, of St. *Andrew* the Apoſtle, of St. *Thomas* the Apoſtle, of the Nativity of our Lord, of St. *Stephen* the Martyr, of St. *John* the Evangeliſt, of the holy Innocents, Munday and Tueſday in *Eaſter*-week, Munday and Tueſday in *Whitſon*-week, are to be obſerved and kept for Holy days, and none other.

And that every even, or day next going before any of the aforeſaid days of the Feaſts, of the Nativity of our Lord, of *Eaſter*, of the Aſcenſion of our Lord, *Pentecoſt*, of the Purification, of the Annunciation of the bleſſed Virgin, of all Saints, and of all the Feaſts of the Apoſtles (other then the Feaſts of St. *John* the Evangeliſt, and *Philip* and *Jacob*) ſhall be kept for faſting days, and none other. Archbiſhops, Biſhops in their Dioces, and all other, having Eccleſiaſtical or Spiritual Juriſdiction, may enquire of every perſon offending in the premiſes, and puniſh every offender by cenſures of the Church, and enjoyn him ſuch penance as by the ſpiritual Judge ſhall be thought meet.

This Statute does not abrogate abſtinence from fleſh in Lent, and Fridays and Saturdays, or any day appointed to be kept by vertue of an Act made the ſecond and third *Ed. 6. Cap. 19.*

When any Holy day happens on the Munday, the faſt of that day ſhall be kept upon the Saturday immediately before, and not upon the Sunday,

A view of the Reformation of Ed. 6. *and of the lawfulness of it.*

That the Book of commom Prayer, Administration of the Sacraments, and other rites and ceremonies of the Church, after the use of the Church of *England*, was framed and composed by the Archbishop of *Canterbury*, and certain of the most learned and discreet Bishops of the Land, assembled to that purpose by the King, is clearly expressed in the Preface to the Act of the 2. & 3. *Ed.* 6. *Cap.* 1.

The Reformation made by *Ed.* 6. was not meerly a civil sanction.

The right that Christian Kings have to call and assemble Synods, Councels and Convocations, for the redress and reformation of errors and corruptions in the Church, is properly the subject of another Treatise; but that the Kings and supream Powers before Christianity under the old Law, from *Moses* to *Maccabees*, did always use it; and that the first great *Nicene* Councel, the second general Councel at *Constantinople*, the third at *Ephesus*, the fourth at *Calcedon*, the fifth at *Constantinople*, the sixth at *Constantinople*, the seventh at *Ephesus*, were all called by Christian Emperors, is manifested by the Bishop of *Winchester*, *Andrews*, in the Sermon of the Right and Power of calling Assemblies; nor were the general Councels convoked by Emperors; but the Emperors and Kings did convoke, and assemble Provincial and National Assemblies and Synods: He shews that the Bishop of *Syracuse* in *Sicily*, and *Restitutus* Bishop of *London* in *Britain*, were summoned to a Synod in *France*, by the Emperor *Constantine*' Writ onely; this was in the beginning of his Reign; in the latter end of it, in the thirtieth year of his Reign, and the year before his death, he called the Councel at *Tyre*, and from thence removed it to *Jerusalem*, and from thence called them to appear before himself at *Constantinople*. After him *Constans* called one at *Sardis*, *Valentinian* at *Lampsacus*, *Theodosius* at *Aquileia*, *Gratian* at *Thessalonica*. Nay, when the Emperors were professed *Arrians*, even then did the Bishops acknowledge their power to call Councels; came to them being called, sued to them that they might be called, came to them as *Hosius* to that of *Arimine*; *Liberius* to that of *Sirmium*, and that of *Seleucia*, sued for them as *Liberius* to *Constantius*: as *Leo* to *Theodosius*, for the second *Ephesine* Councel; *Innocentius* to *Arcadius*: and sometime they sped as *Leo*; and sometime not as *Liberius*, and *Innocentius*; and yet when they sped not, they held themselves quiet, and never presumed to draw themselves together of their own heads.

It is no new thing for Kings to assemble the Bishops and Church to redress and reform errors.

After the Empire fell in pieces, and the Western Empire fell into the hands of Kings; in *Italy*, *Theodoric* called one at *Rome*; *Alaric* at *Agatha*: In *France*, *Clowis* (the first Christian King there) called one at *Orleans*; *Childebert* at *Auvern*, *Theodebert* called another at *Orleans*; and *Cherebert* at *Tours*: And after them, *Gunthramn*, *Clowis*, *Carloman* and *Pepin*; at *Massion* first and second; at *Chalons*: That which is called *Francia*, and that which is in *Vernis*. Twenty of them at least in *France*.

In *Spain* by ten several Kings, in two Councels at *Bracara*, and in ten at *Tolledo*, by the space of three hundred years together. And how? under what terms? Peruse the Councel themselves, their very acts spake, *Ex præcepto*, *Imperio*, *Jussu*, *Sanctione*, *Nutu*, *Decreto*, *Ex evocatione*, *Dispositione Regis*: One saith, *Potestas permissa est nobis*; another, *facultas data est nobis*: a third, *Injunctu est nobis à rege*: and this for about eight hundred years after Christ.

Then aroſe another Empire here in the Weſt under *Charls* the Great; and he called ſix ſeveral Councils, at *Frankfort*, *Arles*, *Tours*, *Chalons*, *Mentz*, and *Rhemes*. And what ſays he in them? In that at *Rhemes*: *In conventu more priſcorum Imperatorum congregato à piiſſimo Domino noſtro Carolo*; That he called that Convention by no other right, then as the manner of the antient Emperors had been to do.

After him, *Ludovicus Pius*, *Lotharius*, *Ludovicus Balbus*, *Carolus Calvus*, *Carolus Craſſus*, and *Arnulphus*, at the ſeveral Councils of *Aken*, *Mentz*, *Melden*, *Wormes*, *Colen*, and *Tribur*; and ſo held it nine hundred years after Chriſt; for about that year (a year or two over or under) was holden the Council at *Tribur* in *Germany*, by the Emperors decree, and himſelf Preſident in it. Nor are the Kings of *England* leſs abſolute, then either Emperors, Kings of *Spain* or *France*. And ſee B. *Bramhalls Juſt Vindication of the Church of England*, *cap.* 7. how the Emperors, Kings of *France*, *Spain* and *Portugal*, have by their own authority convened National and Provincial Councils, which have not only determined without the Papal authority, but very often in contradiction to it. Nor are either the Engliſh or Britiſh Churches, or ever were, leſs free then the Gallicane, the liberties whereof in the Chapter aforeſaid are ſet down, *viz.*

1. The Pope cannot command or ordain any thing directly or indirectly concerning any Temporal affairs, within the Dominions of the King of *France*.

The priviledges of the Gallican Church.

2. The Spiritual authority and power of the Pope, is not abſolute in *France*, but limited and reſtrained to the canons and rules of the antient Councils of the Church, and received in that Kingdom.

3. No command whatſoever of the Pope can free the French Clergy from their obligation to obey the commands of their Soveraign.

4. The moſt Chriſtian King hath had power at all times, according to the occurrence and exigence of affairs, to aſſemble or cauſe to be aſſembled Synods Provincial or National, and therein to treat not only of ſuch things as concern the conſervation of the Civil eſtate, but alſo of ſuch things as concern Eccleſiaſtical order and diſcipline in his own dominions; and therein to make Rules, Chapters, Laws, Ordinances, and Pragmatique Sanctions in his own name, and by his own authority. Many of which have been received among the Decrees of the Catholique Church, and ſome of them approved by General Councils.

5. The Pope cannot ſend a Legate *à latere* into *France*, with power to reform, judge, collate, diſpence, or do ſuch things accuſtomed to be ſpecified in the autoritative Bull of his Legation, except it be upon the deſire, or with the approbation of the moſt Chriſtian King. Neither can the ſaid Legate execute his charge, until he hath promiſed to the King in writing, under his oath upon his holy Orders, not to make uſe of his Legantine power in the Kings dominions, longer then it ſhall pleaſe the King; and that ſo ſoon as he ſhall be admoniſhed of the Kings pleaſure to forbid it, he ſhall give it over: And that whilſt he doth uſe it, it ſhall be exerciſed conformable to the Kings will, without attempting any thing to the prejudice of the Decrees of General Councils, or the Liberties and Priviledges of the Gallicane Church, and the Univerſities of *France*.

6. The Commiſſions and Bulls of the Popes Legate are to be ſeen, examined and approved by the Court of Parliament, and to be regiſtred

and

and publiſhed with ſuch cautions and modifications, as that Court ſhall judge expedient for the good of the Kingdom, and to be executed according to the ſaid cautions, and not otherwiſe.

7. The Prelates of the French Church (although commanded by the Pope) for what cauſe ſoever it be, may not depart out of the Kingdom, without the Kings commandment or licence.

8. The Pope cannot by himſelf, or his delegates, judge any thing which concerns the ſtate, preheminence or priviledges of the Crown of *France*, nor any thing pertaining to it; nor can there be any queſtion or proceſs about the ſtate or pretenſions of the King, but in his Courts.

9. Papal Bulls, Citations, Excommunications, &c. are not to be executed in *France*, without the Kings command or permiſſion; and after permiſſion, only by the authority of the King, and not by authority of the Pope, to ſhun mixture and confuſion of Juriſdictions.

10. Neither the King nor his Realm, nor his Officers, can be excommunicated or interdicted by the Pope, nor his Subjects abſolved from their Oath of Allegiance.

11. The Pope cannot impoſe Penſions in *France* upon any Benefices having cure of ſouls, nor upon any others, but according to the canons, according to the expreſs condition of reſignation, or *ad redimendum vexationem*.

12. All Bulls and Miſſives, which come from *Rome* to *France*, are to be ſeen and viſited, to try if there be nothing in them prejudicial in any manner to the eſtate and liberties of the Church of *France*, or to the Royal authority.

13. It is lawful to appeal from the Pope to a future Council.

14. Eccleſiaſtical perſons may be convented, judged and ſentenced before a Secular Judge, for the firſt grievous or enormous crime, or for leſſer offences after a Relapſe, which renders them incorrigible in the eye of the Law.

15. All places of *France* are obliged to ſwear fealty to the King, and to receive from him inveſtitures for their fees and manors.

16. The Courts of Parliament, in caſe of Appeals as from abuſe, have right and power to declare null, void, and to revoke the Popes Bull and Excommunications, and to forbid the execution of them, when they are found contrary to Sacred Decrees, the liberty of the French Church, or the Prerogative Royal.

17. General Councils are above the Pope, and may depoſe him and put another in his place, and take cogniſance of Appeals from the Pope.

18. All Biſhops have their power immediately from Chriſt, not from the Pope, and are equally ſucceſſors of *S. Peter* and of the other Apoſtles, and Vicars of Chriſt.

19. Proviſions, Reſervations, Expective graces, &c. have no place in *France*.

20. The Pope cannot exempt any Church, Monaſtery, or Eccleſiaſtical body from the juriſdiction of the Ordinary, nor erect Biſhopricks into Archbiſhopricks, nor unite them, nor divide them without the Kings licence.

21. All thoſe are not Hereticks, excommunicated, or damned, who differ in ſome things from the doctrine of the Pope, who appeal from his decrees, and hinder the execution of the ordinances of him or his Legates.

Although

The reformation of King *Ed.* was not Schismatical.

Although the Seſeſſion of the Church, King, and Kingdom of *England*, from the Papacy, were an Act of Schiſm; yet being done in the Reign of *H.* 8. one of the greateſt favorers of the Papacy that ever was King of *England*, and to his death, as great an aſſertor of the Rites, Ceremonies, and Religion of it, and in ſuch a ſtate independent from the Church of *Rome*, was the Church and Kingdom at the time of *Edwards* Reformation; whatſoever therefore his Reformation was, yet could it not be Schiſmatical.

The rites and ceremonies of *Edwards* reformation, were more uniform then before.

Whatever the Romaniſts pretend to unity and peace in their Church, yet it is moſt manifeſt, that in the Realm of *England*, and Dominion of *Wales*, in ſeveral places were uſed divers forms of Prayer, commonly called the Service of the Church, *viz.* that of *Sarum*, of *York*, of *Bangor* and *Lincoln*; but alſo of late, divers and ſundry forms and faſhions were uſed in the Cathedral, and Pariſhes Church of *England* and *Wales*, as well concerning the mattens, or morning prayer, and evening ſong, as alſo concerning the holy Communion, commonly called the Maſs, with divers and ſundry rites and ceremonies concerning the ſame, and in the adminiſtration of other Sacraments of the Church, whereas the ſervice enjoyned in the Reign of *Ed.* 6. was uniform in all places of *England* and *Wales*, as well in Pariſh Churches as Cathedrals.

See preamble to the Statute of 2 & 3 *Ed.* 6. *Cap.* 1.

That the Scriptures, Lords Prayer, and Creed, ſhould be read in the Engliſh tongue, is no new thing in *England*.

In the Reign of King *Ethelbald*, in the year of our Saviors incarnation 748. in a convocation held in the Prouince of *Canterbury*, *Cuthbert*, the Archbiſhop of his Clergy did Enact, that the ſacred Scriptures ſhould be read in their monaſteries, the Lords Prayer and Creed, taught in the Engliſh tongue. *Speed* in the Reign of *Ethelbald*, *para.* 4. *page* 343. and how much it was againſt the Word of God, and the cuſtom of the ancient Church, to uſe a tongue unknown to the people, in common prayer, and adminiſtration of Sacraments, ſee the conference at *Weſtminſter*, *an. primo Eliz.* which were never yet anſwered, that I know of.

Edwards reformation was not Heretical.

If any thing Heretical had been contained in the common Prayer, adminiſtration of Sacraments, &c. made in the Reign of *Ed.* 6. it would have been ſufficiently ſhot at, having ſo many adverſaries at home and abroad; but no ſuch crime was ever (that I ever heard of) imputed to it; if there be, let the adverſaries of it yet ſhew it, *& affirmanti incumbit probatio.*

King *Edwards* Reformation was warrantable, materially and formally.

If then not onely the Kings and ſupreme powers always under the old Covenant, had this right of invoking the High Prieſt, and other Prieſts; and if God always puniſhed the Kings of *Judah* and *Iſrael* for ſuffering the people to commit Idolatry; and if God himſelf ſo often commends the zeal and reformation of *Jehoſhaphat*, *Hezekiah*, *Aſa*, *Joſiah*, &c. and if ever ſince Chriſtianity, the Biſhops by that Divine Canon to *Timothy*, have always had in their particular Churches, right of compoſing publick Liturgies, and in national Synods, a right of compoſing publick and national Liturgies: And the Liturgy of *Edward* being compoſed, and received by the Biſhops of the Church of *England*, to that end convened and aſſembly by the King; this Liturgy being neither ſchiſmattical, nor containing any thing heretical, is both for matter and form, warrantable.

1 *Tim. cap* 2.

Object.

If the Sacriledge and extention of the civil Juriſdiction in giving the civil Magiſtrate licence to take cognizance of the publique Liturgy, and adminiſtration of the Sacraments be objected:

The anſwer is eaſie, Let the Courtiers and Parliament anſwer for it; the Church was patient, not agent in them.

The Church of *Rome* having robbed the poor laity of one half of the inſtitution

tution of the Sacrament of the Lords Supper, and kept the people in ſuch ſtupid ignorance, that in the publick worſhip and ſervice of God, they ſhould neither uſe their reaſon nor underſtanding, by impoſing it upon them in an unknown tongue; as if in the publick worſhip and ſervice of God, he were not to be ſerved by intellectual and rational creatures, and had filled the Maſs with more prayers to the Virgin *Mary* and Saints: (which could no ways relieve them, and ſo at beſt ſuperfluous and vain) there was great reaſon in the King and Church, to a make a reformation of the Religion and publick Worſhip and Service of God.

The King and Church had great reaſon to make Reformation in Religion.

Of Queen Maries *Eccleſiaſtical Laws.*

Although King *Ed.* were a Prince of tranſcendent Vertue and Learning far above his years, yet doubtleſs his youth was not onely much abuſed in his Reign, where a man might have ſeen all the woes pronounced by God, upon that Nation, where the King is a childe, or where a company of men in Parliament arrogate to themſelves the Politick capacity of a King, abſtracted from his perſon; but alſo at his very death (cauſed, not without ſuſpicion of poyſon,) was he deluded upon ſpecious pretences by his whole Councel, but principally by the Duke of *Northumberland* (to make way for the Lady *Jane Gray*, in the time of his ſickneſs married to his fourth ſon *Guilford Dudley*) to declare the ſaid Lady *Jane* the rightful heir and ſucceſſor to the Engliſh Monarchy, to the manifeſt wrong and injury, not onely of Queen *Mary*, and *Elizabeth*, afterward Queens of *England*, but alſo of *Mary* Queen of *Scots*, heir to *Margaret* the eldeſt daughter of *Henry* the ſeventh; whereas the Lady *Janes* Title was deſcended from *Mary* the younger daughter of *H.* 7. yet it ſo pleaſed God, that this unjuſt Will, ſhould onely bring deſtruction both to the Lady *Jane* and her husband: whereas the Ladies, *Mary* and *Elizabeth*, and the Poſterity of *Mary* Queen of *Scots*, did all ſucceed and enjoy the poſſeſſion of the *Engliſh* Diadem, of which they were debarred by this Will of King *Edward*. That the Title of Head of the Church was continued by Queen *Mary*, appears by the Parliament begun and holden at *Weſtminſter* the fifth of *October*, in the firſt year of her Reign, in the firſt and ſecond ſeſſion of it, where ſhe is ſtiled, our Gracious Soveraign Lady, *Mary* by the Grace of God, Queen of *England*, *France* and *Ireland*, Defender of the Faith, and in Earth Supreme Head of the Church of *England* and *Ireland*; but in the ſecond Parliament of her Reign, being holden at *Weſtminſter*, the ſecond of *April*, the firſt year of her Reign, the Title of Supreme Head of the Church of *England* and *Ireland*, is not mentioned.

Declares Queen *Mary* to be born in lawful Matrimony, and all ſentences of divorce to the contrary repealed; particularly the ſentence of *Thomas Cranmer* Archbiſhop of *Canterbury*, touching the Kings marriage with Queen *Katherine*, and the two Acts of Parliament of the 25 *H.* 8. 22. & 28 *H.* 8. 7. confirming the ſame.

Stat. An. Pri. Cap 1. ſeſs 2. Mariæ.

A Repeal of the Statute of 1 *Ed.* 6. 2. made againſt ſuch as ſpeak unreverently of the body and blood of Chriſt, and of the Statute of 1 *Ed.* 6. 2. touching Election of Biſhops, and the 2 *Ed.* 6. 1. concerning the uniformity of ſervice, and adminiſtration of the Sacraments: and of 2 *Ed.* 6. 21, made to take away all poſitive Laws, ordained againſt the marriage of Prieſts. and of the 3 *Ed.* 6. 10. made for the aboliſhing of divers books and Images; and of the 3 *Ed.* 6. 12. made for the ordering of Eccleſiaſtical Miniſters: and of the 5 *Ed.* 6. 1. made for the uniformity of common Prayer, and Adminiſtration

St. An. Pri. Ma. ſeſs 2. Cap. 2.

ſtration of Sacraments: and of the 5 *Ed.* 6. 3. made for the keeping of Holy days, and Faſting days: and of the 5 *Ed.* 6. 12. touching the Marriage of Prieſts, and legitimation of their children. All ſuch divine ſervice, and adminiſtration of Sacraments, as were moſt commonly uſed in *England* in the laſt year of *H* 8. ſhall be uſed through the Realm, after the 20. day of *December Anno Dom.* 1553. and no other kinde of ſervice, nor adminiſtration of Sacraments.

St. An. 1 *Mariæ Seſſ.* 2. *Cap.* 3. It is Enacted, That if any perſon or perſons, of their own power and authority, after the 20. of *December*, ſhall willingly, and of purpoſe, by open or overt word, fact, &c. maliciouſly or contemptuouſly neglect, vex, or diſturb, &c. any Preacher or Preachers licenſed, allowed or authorized to Preach by the Queens Highneſs, or by any Archbiſhop, or Biſhop of this Realm, or by any other lawful Ordinary, or by either of the Univerſities of *Oxford* or *Cambridge*, or otherwiſe lawfully authorized by reaſon of his Cure or Benefice, &c. in any open Sermon, Preaching or Collation, in any Church, Chappel, or Churchyard, &c.

Or if any perſon ſhall wilfully diſturb, &c. any Parſon, Vicar, Pariſh-Prieſt, Curat, or other lawful Prieſt, ſaying or celebrating the Maſs, or other divine ſervice, ſacraments, or ſacramentals, as was commonly frequented and uſed in the laſt year of *H.* 8. or afterward ſhould be allowed and ſet forth, or authorized by the Queen.

Or if any perſon ſhall contemptuouſly, unlawfully, or maliciouſly deface, ſpoil, abuſe, or unreverently handle or order the moſt bleſſed, comfortable and holy ſacrament of the body and blood of our Lord and Saviour Jeſus Chriſt, commonly called the Sacrament of the Altar, being in any Church, Chappel, or other decent place, or the Piece, or Canapy wherein the ſame Sacrament is, or ſhall be, or pull down, deface, ſpoil, or otherwiſe break any Altar or Altars, or any Crucifix, or Croſs in any Church, Chappel, or Churchyard, That then every ſuch offender, his ayders and abettors, ſhall be apprehended, *&c.* by the Conſtable or Churchwarden of the place wherein the ſaid offences ſhall be committed.

Which perſons ſo apprehended, &c, with convenient ſpeed ſhall be brought, and carried to any Juſtice of Peace within the ſaid Shire, &c. where the ſaid offence ſhall be committed, and the ſaid Juſtice of Peace upon due accuſation, ſhall forthwith commit the ſaid perſon or perſons, to ſafe cuſtody, as by the diſcretion of the ſaid Juſtice ſhall be thought meet, and within ſix days next after ſuch accuſation, the ſaid Juſtice, with other Juſtices of Peace in the ſaid Shire, City, &c. ſhall diligently examine the acts and offences aforeſaid.

And if two of the ſaid Juſtices of Peace ſhall upon examination, finde the perſon or perſons ſo accuſed, guilty of any of the ſaid offences, by two ſufficient witneſſes, or by confeſſion, the ſaid Juſtices of Peace ſhall commit the perſon or perſons ſo accuſed, to the Gaol of the County, City, Burrough, &c. where the ſaid offences were committed, without bail or mainprize, by the ſpace of three moneths, and further to the next quarter ſeſſions to be holden in the ſaid ſhire, city, burrough, &c. next after the end of the ſaid three months, which quarter ſeſſions the party offending, upon his repentance and reconciliation, ſhall be diſcharged out of priſon, upon ſufficient ſecurity for his good behaviour for one whole year; but if he or they will not repent and be reconciled, then to be committed again to the ſaid Gaol, there to remain until he or they ſhall repent and be reconciled for their offences. If

If any perſon ſhall receive the offendor or diſturbe the arreſt, he ſhall forfeit to the Queene, her Heires and Succeſſors, for every ſuch offence the ſumme of five pounds. If any offendor bee not taken, but eſcape hee ſhall forfeit to the Queene for every ſuch eſcape five pounds.

The Juſtices of Peace, Juſtices of Aſſize, Juſtices of *Oyer* and *Terminer*, all Mayors, Bayliffs, Juſtices of Peace, within any City, Borough, or Town-corporate, have power and authority to enquire into, heare and determine the offences and miſdemeanors aforeſaid, and to ſet fines and amerciaments therefore.

This Act doth not take away any authority, juriſdiction, &c. of Eccleſiaſticall Lawes then in force.

This Statute repeales all Statutes made againſt the Church of *Rome*, particularly the Statute of 21 *H.* 8. 13. made againſt plurality of Benefices, taking of Farmes by Spirituall men, and *non reſidence*. The Statute of 23 *H.* 8. 9. That no perſon ſhall be cited out of his Dioceſs wherein he or ſhe dwelleth, except for certain caſes. Stat. 24 *H.* 8. 12. That Appeals in ſuch caſes as had been proved in the See of *Rome* ſhould not from henceforth be had, nor uſed but within this Realm. Stat. 25 *H.* 8. 19. entituled *The ſubmiſſion of the Clergy t the Kings Majeſty*. Stat. 25 *H.* 8. 20. concerning reſtraints of Payments of Primates and Firſt-fruits of Arch-biſhopricks & Biſhopricks to the See of *Rome*. Stat. 25 *H.* 8. 21. concerning the exoneration of the Kings Subjects from exactions and impoſitions before that time paid to the See of *Rome*, and for having licences and diſpenſations within this Realm, without ſuing further for the ſame. Stat. 26 *H.* 8. 1. concerning the Kings being ſupreme head of the Church, and to have Authority to reform, and redreſſe all errors, hereſies, and abuſes in the ſame. Stat. 26 *H.* 8. 14. for nomination and confirmation of Suffragans within this Realm. Stat. 27 *H.* 8. 15. whereby the King ſhould have power to nominate 32. perſons of his Clergy and Lay Fee for making Eccleſiaſticall Lawes. Stat. 28 *H.* 8. 10. Extinguiſhing the Authority of the Biſhop of *Rome*. Stat. 28. *H.* 8. 16. For releaſe of ſuch as then had obtained pretenced licences and diſpenſations from the See of *Rome*. Stat. 28 *H.* 8. 7. for the eſtabliſhment of the ſucceſſion of the Imperiall Crown of this Realm, that concerneth a Prohibition to marry within the Degrees expreſſed in the ſaid Act. Stat. 31 *H.* 8. 9. authoriſing the King to make Biſhops by his Letters Patents. Stat. 32 *H.* 8. 38. concerning precontracts of Marriages, and touching degrees of conſanguinity. Stat. 35 *H.* 8. 3. for ratification of the Kings Stile. The corporall oath made in the Stat. of 35 *H.* 8. 1. that every Subject of this Realm ſhould be bound to take againſt the power, authority, and juriſdiction of the See of *Rome*. Stat. 37 *H.* 8. 17. That the Doctors of the Civill Law which were married might exerciſe Eccleſiaſticall juriſdiction. So much of that Statute of the firſt *Ed.* 6. 1. as contains certain Proviſions, Pains, Penalties and Forfeitures, for and againſt ſuch as ſhould by open preachings, expreſſe words, ſayings, writing, printing, overt-deed or act, affirme or ſet forth, That the King of this Realm, for the time being, is not, or ought not to be the ſupreme head in earth of the Churches of *England* and *Ireland*, nor of any of them; or that the Biſhop of *Rome*, or any other perſon or perſons, other than the K. of *England* for the time being, is or ought to be ſupreme head of the ſame Churches, or any of them, as in the ſaid Act more at large may appear. It is enacted, that theſe clauſes, and other of the foreſaid

Anno 1 & 2 Phil. & Mar. *cap.* 8.

ſaid Act concerning the Supremacy, and all, and every branch, article, words, and ſentence in the ſame, ſounding or tending to the Derogation of the ſupremacy of the Popes Holineſs, or the See of *Rome*, and all pains, penalties and forfeitures made againſt them, that ſhould by any means ſet forth or extol the ſaid Supremacy, ſhould from thenceforth be utterly void.

It did moreover generally repeal all clauſes, ſentences and articles of every other Statute made ſince the 20 *H.* 8. againſt the ſupreme authority of the Popes Holineſs, or See Apoſtolick of *Rome*.

The Lords Spirituall and Temporall, and Commons profeſſing themſelves reduced and received by their Majeſties interceſſion to the unity of Chriſts Church, and obedience of the Apoſtolick See of *Rome*, and the Pope governing the ſame, did make humble ſuite to their Majeſties to be Interceſſors, that by authority of the Popes Holineſs, and by the miniſtration of Cardinall *Poole*, by diſpenſation, tolleration, or permiſſion, reſpectively as the caſe ſhall require, be aboliſhed theſe Articles following, and generally all others, when any occaſion ſhall ſo require, may be provided for and confirmed.

1. That all Biſhopricks, Cathedrall Churches, Hoſpitalls, Colledges, Schooles, and other ſuch foundations now continuing, made by authority of Parl. or otherwiſe eſtabliſhed according to the order of the Lawes of this Realm, ſince the Schiſme, may be confirmed and continue for ever.

2. That Marriages made *infra gradus Prohibitos, conſanguinitatis, affinitatis, cognationis ſpiritualis*, or what might be made void *propter impedimentum Publicæ honeſtatis juſtitiæ*, or for any cauſe prohibited by the Canons only, may be confirmed; and children born of thoſe Marriages declared legitimate, ſo as thoſe Marriages were made according to the Lawes of the Realm for the time being, and be not directly againſt the Lawes of God, nor in ſuch caſe as the See Apoſtolick hath not uſed to diſpence withall.

3. That inſtitution of Benefices and other promotions Eccleſiaſticall, and diſpenſations made according to the form of the Act of Parliament may likewiſe be confirmed.

4. That all Judiciall Proceſſes made before any Ordinaries of this Realm, or before any Delegates upon any Appeals, according to the order of the Lawes of this Realm, may likewiſe be ratified and confirmed.

5. That the Lands and Goods of Biſhopricks, Monaſteries, Chanteries, &c. diſperſed abroad to ſundry perſons by gift, exchange, purchaſe, &c. according to the Lawes of the Land for the time being, ſhall ſo continue.

It was enacted, that the title of ſupreme head of the Church, never was nor could be attributed to by any King or Governor.

It was enacted that all Bulls, Diſpenſations, and Priviledges obtained before the 20 year of *H.* 8. or any time ſince of the See of *Rome*, and not containing matter prejudiciall to the Imperiall Crown, or Lawes of this Realm, ſhould be put in execution.

This Statute did reſtore the Pope and Apoſtolick See, together with the Juriſdiction the Biſhops had in the Realm, to all the Authority they had before the 20 of *H.* 8.

It is a very remarkable thing that this Statute does affirme, that nothing done or moved in this Statute ſhould be prejudicall to the Liberties of the Crown, before the 20 of *H.* 8. and that the Statute of 24 *H.* 8. 12. and the

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Statute of 25 *H.* 8. *cap.* 20. which takes away all Eccleſiaſticall Juriſdiction from the Pope, and veſts it in the King, ſhould be but declaratory of the ancient and common Law of this Land. See *Coke de jure Regis Eccleſiaſtico* 28. *a. b.* 31. one of theſe muſt neceſſarily be falſe.

Thus did Queen *Mary* reſtore by Parl. all the Papall Juriſdiction, which was exerciſed before the 20 of *Henry* the 8. and would have reſtored all the Abbey and Chantery Lands taken away by her Father and Brother, had it been in her power; but many alienations, deſcents, and purchaſes having been made of them, ſhe was not able to performe it, being a Princeſs no doubt, wondrous free from ſacriledge, zealous and conſtant in her Religion, merciſull (when her Religion was not concerned) and juſt: Her mercy appears in her not only pardoning all the Councell, who had ſubſcribed to her diſinheriting; but it was thought ſhe would not have taken away the life of the Lady *Jane* (although guilty of ſo high a crime, as having actually invaded the Crown) if the Duke of *Suffolk* her Father (formerly pardoned by the Queens meer grace) had not moſt unjuſtly and unthankfully excited her Subjects againſt her, which together with *Wiats* Rebellion, for her own ſecurity, did neceſſitate her for her own ſecurity to execute her. Her juſtice appears in this; the Lord *Sturton* having been at variance with one *Hargill* and his Son, Gentlemen, knocked the poor Gentlemen on the head, and after cut their throats, and buried their bodies in a Pit 15. foot deep, hoping this villainy would never come to light, or if it did, he aſſured himſelf of the Queens favour, being zealouſly addicted to the Popiſh Religion; which did him not good, for the Queen abhorred and rejected all mention of Pardon for him, only he had this grace, that the other Murderers were hanged in a hempen, but he in a ſilken halter,

Deſcription of Queen *Mary*.

Eccleſiaſticall Lawes made in the Reign of Queen Elizabeth.

IT is declared that in the Reign of *H.* 8. divers good Lawes and Statutes were made, as well for the utter extinguiſhing of all uſurped and forrein Powers and Authorities of this Realm, and other her dominions and Countries, as alſo for the reſtoring, and uniting to the Imperiall Crown of this Realm, the ancient Juriſdiction, Authorities, Superiorities and Preheminencies to the ſame of right belonging and appertaining; By reaſon whereof her moſt humble Subjects from the time of the 25 *H.* 8. were continually kept in good order, and were diſburdened of divers great and intollerable charges and vexations, before that time unlawfully taken and exacted by ſuch foreign Power and Authority as before that was uſurped. * And to the intent that all uſurped power, Spirituall and Temporall, might for ever be extinguiſhed, and never be uſed or obeyed in this Realm, or any other her Majeſties Dominions: It was therefore by the Authority of that Parliament enacted, That no forrein Prince, Perſon, Prelate, State or Potentate Spirituall or Temporall, ſhould at any time after the laſt day of that Seſſion of Parliament uſe, enjoy, or exerciſe any manner of Power, Juriſdiction, Authority, Preheminence or Priviledge Spirituall or Eccleſiaſticall within this Realm, or within any other the Queens Dominions or Countries, that then were, or hereafter ſhould be; but from henceforth the ſame ſhould be clearly aboliſhed out of this Realm, and all other her Dominions for ever. And it was then alſo eſtabliſhed and enacted, That ſuch Juriſdiction, Priviledges

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Anno 1. Eliz. *cap.* 1.

The Statute of 1 & 2 *Ph.* & *Ma. cap.* 8. which reſtored to the Pope all which this Stat. takes away, declares that nothing was done prejudiciall to the Crown in ſo doing.

ledges, Superiorities and Preheminences, Spirituall and Eccleſiaſticall, as by any Spirituall and Eccleſiaſticall Power or Authority had heretofore been, or might lawfully be exerciſed or uſed for the viſitation of Eccleſiaſticall ſtate and perſons, and for reformation, order and correction of the ſame, and of all manner of errors, hereſies, ſchiſmes, abuſes, offences, contempts and enormities, ſhould for ever by authority of that Parliament be united and annexed to the Imperiall Crown of this Realm: And that the Queen her Heirs and Succeſſors, Kings or Queens of this Realm, ſhould have full power and authority by virtue of that Act, by Letters Patents under the Great Seal of *England*, to aſſigne, name and authorize, when, and as often as the Queen, her Heirs and Succeſſors ſhall think meet and convenient: and for ſuch and ſo long time as ſhould pleaſe the Queen, her heirs and ſucceſſors, ſuch perſon or perſons being naturall born Subjects to the Queen, her heirs or ſucceſſors, as the ſaid Queen her heirs or ſucceſſors ſhould think meet, to exerciſe, uſe, occupy and execute under the ſaid Queen, her heirs and ſucceſſors, all manner of Juriſdictions, Priviledges and Preheminences in any wiſe touching or concerning any Spirituall or Eccleſiaſticall Juriſdiction within theſe Realms of *England* or *Ireland*, or any other her Dominions and Countries; and to viſite, reform, redreſs, order, correct and amend all ſuch errors, hereſies, ſchiſmes, abuſes, contempts and enormities whatſoever, which by any manner ſpirituall, or eccleſiaſticall Power, Authority, or Juriſdiction, could or might lawfully be reformed, ordered, redreſſed, corrected, reſtrained, or amended to the pleaſure of Almighty God, the encreaſe of virtue, and conſervation of the peace and unity of this Realm. And that ſuch perſon or perſons ſo to be named, aſſigned, authorized and appointed by the ſaid Queen, her heirs and ſucceſſors, after the ſaid Letters Patents to him or them made and delivered, as is aforeſaid, ſhould have full power and authority by virtue of that Act, and of the Letters Patents under the ſaid Queen, her heirs and ſucceſſors, to exerciſe, uſe, and execute all the premiſſes according to the tenor and effect of the ſaid Letters Patents, any matter or cauſe to the contrary in any wiſe notwithſtanding.

This Statute doth create the oath of Supremacy to be taken by all men who hold any Office, or take from the Queen her heirs and ſucceſſors any Fees or Wages within this Realm, or other her Highnes Realms or Dominions: the form and tenor of it is,

I A. B. doe utterly teſtifie and declare in my conſcience, that the Queens Highneſs is the only ſupreme Governor of this Realm, and all other her Highneſs Dominions and Countries, as well in all Spirituall or Eccleſiaſticall things or cauſes, as Temporall; and that no forrein Prince, Perſon, Prelate, State, or Potentate hath or ought to have any Juriſdiction, Power, Superiority, Preheminence or Authority Eccleſiaſticall or Spirituall within this Realm; and therefore I doe utterly renounce and forſake all forrein Juriſdiction, Powers, Superiorities and Authorities, and do promiſe, that from henceforth I ſhall bear faith and true allegiance to the Queens Majeſty, her Heirs, and lawfull Succeſſors, and to my power ſhall aſſiſt and defend all Juriſdictions, Priviledges, Preheminences and Authorities, granted or belonging to the Queens Highneſs, her Heirs and Succeſſors, or united and annexed to the Imperiall Crown of this Realm; So help me God, and the contents of this Book.

If any perſon dwelling or inhabiting within this Realm, or any other of the Queens, ſhould within 30. dayes after the determination of the Seſſion of

that

that Parliament, by Writing, Printing Teaching, &c. maintain any forrein Power or Juriſdiction, Eccleſiaſticall or Spirituall; or ſhall adviſedly put in uſe any ſuch forrein Power or Juriſdiction within any of her Highneſs Dominions, he and his Aiders, Abettors, Counſellors, &c. ſhall forfeit to the Queen, her Heirs and Succeſſors, all his goods and chattels, as well reall as perſonall.

If any perſon ſo convict be not worth in Goods and Chattels the ſumme of 20 s. every ſuch perſon upon conviction, over and beſides the forfeiture of his Goods and Chattels, ſhall ſuffer impriſonment by the ſpace of a whole year without Bail or Mainpriſe.

And that all and every the Benefices, Prebends, and other Eccleſiaſticall promotions and dignities of every perſon ſpirituall ſo offending and being attaint, ſhall be utterly void; and the Patron and Donor may preſent, as if the Incumbent were actually dead. For the ſecond offence the party offending ſhall incur the danger of a Premunire. For the third offence after conviction and *Attainder* the party offending ſhall ſuffer death, and forfeiture of all his Goods, as in caſe of High Treaſon.

The offender muſt bee impeached for preaching, teaching or ſpeaking any thing againſt the Premiſſes, within a yeere after ſuch preaching, teaching or ſpeaking: and if any perſon ſhall be impriſoned for preaching, teaching or ſpeaking againſt this Statute, and if be not indicted within the ſpace of one half yeer next after his offence, that he be diſcharged and ſet at liberty.

No matter of Religion, or cauſe Eccleſiaſticall made by this Parliament ſhall be judged Error, Hereſie, Schiſm, or ſchiſmaticall opinion.

Such Perſons as ſhall bee authorized by Letters Patents under the Broad-ſeale of England, ſhall have juriſdiction, power or authority ſpirituall to viſite, reform, order or correct any errors, hereſies, ſchiſms, abuſes or enormities: But by virtue of this Act they have not authority to determine or adjudge any thing to bee hereſy, but only ſuch as heretofore have beene determined by Canonicall-Scripture, or the 4 firſt generall Councells, or any of them, or by any Generall Councell, wherein the ſame was declared hereſie by expreſſe and plaine words of Scripture, or ſuch as ſhould be determined Hereſie by the high Court of Parl. with the aſſent of the Clergy in their Convocation.

This Statute revives the 23 *H.* 8. 9. 24 *H.* 8. 12. 25 *H.* 8. 20. 25 *H.* 8. 21. 26 *H.* 8. 14. 28 *H.* 8. 16. So much of the Act of the 32 *H.* 8. 38. concerning precontracts of Marriages, and touching degrees of Conſanguinity as by the 2 *Ed.* 6. 23. was not repealed, the 37 *H.* 8. 17. the 1 *Ed.* 6. 1.

This Act repeales the Statute of the 1 & 2. *Ph. & M.* 6. the 1 & 2 *Ph. & M.* 8, except thoſe things touching the Premunire in the ſaid Statute: It repeales the 5 *R.* 2. 5. the 2 *H.* 4. 15. the 2 *H.* 5. 7. made for the puniſhment of Hereſies, by fire and faggot.

This ſtatute repeales the ſtatute of the firſt of *Mary* and the 2, and revives the ſtatute of the 5 & 6 of *Ed.* 6. for the uniformity of Prayer and adminiſtration of the Sacraments, with the alteration or addition of certain Leſſons to be uſed every Sunday of the yeere, and the forme of the Letany altered and corrected, and two ſentences only added in the delivery of the Sacrament to the Communicants. *Stat.* 1 Eliz. *cap.* 2

If any Parſon, Vicar, or other whatſoever Miniſter, that ought or ſhould ſay or ſing Common-Prayer, mentioned in the ſaid Booke, in ſuch Cathe-

drall or Pariſh-Church, or other places where he ſhould Miniſter the ſame, in ſuch manner and forme as is mentioned in the ſaid Booke, refuſe to doe the ſame, or uſe any other forme, or ſhall preach, declare or ſpeake any thing in derogation of the ſaid booke or any thing therein contained, or any part thereof, and ſhall thereof be lawfully convicted, according to the Lawes of the Land, by the Verdict of 12 men, or confeſſion, or notorious evidence of the fact; ſhall forfeit to the Queene, &c. for the firſt offence, the profits of one whole yeere, next after ſuch conviction, of all his ſpirituall Benefices, and ſuffer impriſonment for the ſpace of ſix moneths without Bayle or Mainprize.

If any ſuch perſon, once convicted concerning the Premiſſes, ſhall after ſuch conviction offend, and be thereof lawfully convict, ſhall ſuffer impriſonment for the ſpace of one whole year, and be deprived *ipſo facto* of all his ſpirituall promotions; and that it ſhall be lawfull for all Patrons and Donors of ſuch ſpirituall promotions to preſent or collate to the ſame as if the perſon or perſons ſo offending were dead.

If any perſon be convicted the third time of the premiſſes, he ſhall *ipſo facto* be deprived of all his ſpirituall promotions, and ſhall ſuffer impriſonment during life.

Any perſon that ſhall offend, and be convicted in form aforeſaid, concerning any of the premiſſes, not being beneficiall, or having any ſpirituall promotion, ſhall for the firſt offence after ſuch conviction, ſuffer impriſonment for the ſpace of one whole year without Bail or Mainpriſe: and for the ſecond offence, after lawfull conviction, ſhall ſuffer impriſonment during life.

If any perſon ſhall doe or ſpeak any thing in derogation of the book of Common-prayer, or diſturb or interrupt any Parſon, Vicar, or other Miniſter in any Cathedrall or Parſhi Church or Chappel in the celebration of the Common-prayer, or miniſtration of the Sacraments; or ſhall compell or cauſe any other Service to be celebrated, being thereof lawfully convict, ſhall for the firſt offence forfeit to the Queen, &c. the ſumme of one hundred Marks, and for the ſecond offence the ſumme of four hundred Marks, and for the third offence he ſhall forfeit all his Goods and Chattels, and ſuffer impriſonment during life.

If any perſon ſhall for the firſt offence be convict of the premiſſes in form aforeſaid, and ſhall not pay the ſum to be paid by virtue of his conviction, that inſtead thereof he ſhall ſuffer impriſonment for the ſpace of 6. moneths without Bail or Mainpriſe; and he that ſhall not pay for the ſecond conviction ſhal ſuffer impriſonment for the ſpace of 12. moneths without Bail or Mainpriſe.

Every perſon ſhall (having no lawfull or reaſonable excuſe to be abſent) diligently and faithfully endeavour to reſort to the uſuall places where Common-prayer and ſuch Service of God ſhall be uſed, upon Sundayes and other dayes appointed to be kept holy, and there abide orderly and ſoberly during the time of Common-prayer, Preaching, and other Service of God, upon pain of puniſhment by cenſures of the Church, and twelve pence to be levied by the Church-wardens to thoſe of the poor of the Pariſh by way of diſtreſs.

The Ordinaries, and all other Officers Eccleſiaſticall, as well in places exempt as not exempt within their Dioceſs, have power and authority by this

Act

Act to correct, and reform, and puniſh by Church cenſures all who ſhall offend within their Juriſdictions.

The Juſtices of *Oyer* and *Determiner*, or Juſtices of Aſſiſe in open and generall Seſſions have power to hear, determine and puniſh theſe offences, yet ſo that every Arch-biſhop and Biſhop in their ſeverall Dioceſſes by virtue of this Act may aſſociate or joyn themſelves with the ſaid Juſtices.

No perſon ſhall be moleſted for any offences aboveſaid, unleſſe he be indicted at the next generall Seſſions, next after ſuch offences are committed.

All Lords of Parliament for their third offence ſhall be tried by their Peers.

Chiefe Officers of Cities and Boroughs have the like authority to hear and determine the offences aforeſaid, as the Juſtices of Aſſize, and *Oyer* and *Determiner* have.

Arch-Biſhops, Biſhops, their Chancellors, Commiſſaries, Arch-Deacons and other Ordinaries, having any peculiar Eccleſiaſticall Juriſdiction, have by virtue of this Act power in their Viſitations, Synods, and elſewhere within their Juriſdictions, to enquire and take the accuſations, and informations of all the offences aforeſaid, and to puniſh the ſame by Admonition, Excommunication, Sequeſtration, or Deprivation, and other cenſures, in like form as heretofore has been uſed by the Queens Eccleſiaſticall Laws.

Any perſon offending in the premiſſes, and puniſhed therefore by the Ordinary, having a teſtimoniall thereof under the Ordinaries Seal, ſhall not for the ſame offence be convicted before the Juſtices; and likewiſe puniſhed for the firſt offence by the Juſtices, he ſhall not again receive puniſhment of the Ordinary.

Such Ornaments of the Church and of the Miniſters ſhall be reteined and be in uſe, as was in this Church of *England* by authority of Parliament in the 2 year of the Reign of *Ed. 6.* untill other Order ſhall be taken by authority of the Queen, with the advice of the Commiſſioners appointed and authoriſed under the Great Seal of *England* for cauſes Eccleſiaſticall, or of the Metropolitan of the Realm. *Anno 5 Eliz. cap. 1.*

It was enacted, That whatſoever perſon inhabiting in the Queens Dominions, who by word or deed ſhould maintain that the Biſhop of *Rome* had any authority or juriſdiction in any of the Queens Realms or Dominions, ſhould incurre the danger of a *Premunire*.

If any man ſhall the ſecond time maintain the Pope to have any juriſdiction or authority in any of the Queens Dominions, it ſhall be Treaſon.

The Oath ſet forth in the firſt *Eliz. cap.* 1. ſhall be taken of all Eccleſiaſticall Orders, of all degrees in the Univerſity, of School-maſters, Utterbariſters, Benchers, Readers, Ancients, Pronotaries, Atturneys, Philizers, Sheriffs, Eſcheators, Feodaries, Officers of the Common-Law, Officers of any Court: but none above the degree of a Baron may be compelled. The Biſhop may tender the oath to any ſpirituall perſon in his Dioceſſe. The Lord Chancellor or Keeper ſhall direct Commiſſions under the Broad-ſeal to any perſon or perſons giving them authority to miniſter the oath to any ſuch perſons, as by the aforeſaid Commiſſion, the ſaid Commiſſioners ſhall be authoriſed to tender the oath unto.

Any perſon aforeſaid refuſing to take the Oath, and being thereof legally convicted within one year, ſhall for the firſt offence incur the danger of a *Premunire*; and for the ſecond ſhall ſuffer as in caſe of High Treaſon.

Every

Every Knight, Citizen, Burgeſs, or Baron for any of the Cinque Ports, ſhall take the ſaid Oath, and in caſe of refuſall ſhall be deemed no Knight, Citizen, Burgeſs or Baron.

Anno 13 Eliz. *cap.* 1. It was enacted, That if any perſon in the Queens Dominions ſhould uſe or put in uſe any Bull of abſolution, or reconciliation formerly had, or afterward to be obtained from the Biſhop of *Rome*, his ſucceſſors, or any claiming under him: or if any perſon ſhall by virtue of ſuch Bull, take upon him to grant or promiſe to any perſon, any ſuch abſolution or reconciliation: or if any perſon ſhall willingly receive ſuch abſolution or reconciliation, or ſhall obtain from the Biſhop of *Rome* any manner of Bull, Writing, or Inſtrument containing any thing whatſoever, or ſhall publiſh any ſuch Writing or Inſtrument, ſhall be adjudged a Traitor.

The aiders, comforters, and maintainers of the offendors after offence, ſhall incur the pains and penalties of a *Premunire*.

Every perſon to whom ſuch Abſolution, Reconciliation, Bull, Writing or Inſtrument ſhall be offered, moved, or perſwaded to be put in uſe, and ſhall conceal ſuch motion or perſwaſion, and not diſcloſe the ſame within ſix weeks following, to ſome of the Queens Councell, or to the Preſident, or Vice-Preſident of the North parts, or in the Marches of *Wales*, ſhall incur the danger and penalty of a *Premunire*.

The bringers into the Realm, or uſing any *Agnus Dei*, Croſſes, Pictures, Beads, &c. from the Biſhop of *Rome*, or any claiming authority from the Biſhop of *Rome* to conſecrate the ſame, as well the parties bringing, as the parties receiving, ſhall incur the danger of a *Premunire*.

But if any perſon to whom ſuch *Agnus Dei, &c.* ſhall be tendred, ſhall apprehend the perſon tendring the ſame, and bring him to the next Juſtice of Peace within the County where the ſaid tender ſhall be made, if it be in his power; or for lack of ability, ſhall within three dayes diſcloſe the names of the perſon ſo tendring, or his place of reſort to the Biſhop of that Dioceſs, or to any Juſtice of Peace of that Shire where ſuch perſons are reſiant; or if any perſon receive ſuch *Agnus Dei, &c.* and ſhall within one day after receipt deliver the ſame to any Juſtice of Peace within the ſame Shire, that then every ſuch perſon ſhall not incur the penalties aboveſaid.

All they who within three moneths after diſſolution of the Parliament, ſhall bring in, and deliver all ſuch Bulls, Writings, Inſtruments of Reconciliation to the Biſhop of the Dioceſſe wherein ſuch abſolution had been made, to be cancelled, and confeſſe and acknowledge his offence, and deſire to be received into the Church of *England*, ſhall be clearly pardoned of ſuch offence. And every perſon who had received any abſolution from the Biſhop or See of *Rome*, or any reconciliation unto the Biſhop or See of *Rome*, ſince the firſt year of the Queen, and ſhall within three moneths after any Seſſion or diſſolution of the Parliament come before the Biſhop of the Dioceſs where ſuch abſolution or reconciliation was made, and publickly acknowledge his offence therein, and humbly deſire to be reſtored and admitted into the Church of *England*, ſhall be clearly pardoned of ſuch offence.

If any Juſtice of Peace, to whom any matter, or offence before mentioned, ſhall be uttered, doe not within 14. dayes after ſignifie and declare the ſame to ſome one of the Queens Privie Councell, that then ſuch Juſtice ſhall incur the danger of a *Premunire*.

Noble-men ſhall be tryed by their Peers.

Saving

Saving to all perſons, Bodies politique and corporate, their heirs and ſucceſſors, others then the ſaid offendors and their heirs, all rights, titles, poſſeſſions, &c. as they or any of them had, at the day of committing the offence aforeſaid, or before.

Stat. 23 *Eliz. cap.* 1. makes it Treaſon for any who ſhall have, or pretend to have power, or ſhall by any means put in practice to abſolve, perſwade, or withdraw any of the Queens Subjects from their naturall obedience; or with-draw them for that intent from the Religion now by her Highneſs authority eſtabliſhed, to the Romiſh Religion: Or if any perſon ſhall by any means be willingly abſolved, or willingly be reconciled, or ſhall promiſe any obedience to any forrein pretended Authority, Prince, State, or Potentate, and be thereof lawfully convict, ſhall ſuffer as in caſe of High Treaſon.

The aiders, maintainers and concealers, who ſhall not within twenty daies at furtheſt diſcloſe the ſame to ſome Juſtice of Peace or higher Officer, ſhall ſuffer as in caſe of Miſpriſion of Treaſon.

Every perſon who ſhall ſing or ſay Maſſe, ſhall forfeit 200 marks, and ſuffer impriſonment during one whole year: And every perſon who ſhall willingly hear Maſſe, ſhall forfeit one hundred marks, and ſuffer impriſonment for a year.

Every perſon above ſixteen years of age, who ſhall not repair to ſome Church, Chappel or uſuall place of Common-prayer, and forbear the ſame, contrary to the Stat. 1 *Eliz.* for uniformity of Common-prayer, ſhall forfeit 20 pounds for every moneth; and over and beſides, if he or ſhe ſhall forbear for the ſpace of 12. moneths after certificate thereof in writing made into the Kings Bench by the Ordinary, a Juſtice of Aſſiſe and Goal-delivery, or a Juſtice of peace of the County where ſuch offendor ſhall dwell or be, ſhall for his obſtinacy be bound with two ſufficient Sureties in the ſum of 200 pounds at leaſt to the good behaviour, and ſo continue bound, untill ſuch time as he ſhall conform himſelf and come to Church, according to the true intent of the Statute of the ſaid 1 *Eliz.*

Every perſon, Body politique or corporate, who ſhall maintain a School-maſter who ſhall not repair to the Church as aforeſaid, or be allowed by the Ordinary of the Dioceſſe where ſuch School-maſter ſhall be kept, ſhall forfeit for every moneth ten pound: And ſuch School-maſter preſuming to teach any thing contrary to this Act, and being thereof lawfully convict, ſhall be diſabled to be a Teacher of Youth, and ſhall ſuffer impriſonment without Bayl or Mainpriſe for the ſpace of a year.

No Ordinary or their Miniſters ſhall take any thing for the allowance of any Schoole-maſter.

All offences aforeſaid, and all offences againſt the firſt *Eliz.* 1. 5 *Eliz.* 1. 13 *Eliz.* 2. *&c.* are inquirable into by the Juſtices of peace, and other Juſtices named in the ſaid Act, within a year and day after ſuch offences committed. Juſtices of *Oyer* and *Terminer* of Aſſiize, of Goale-delivery, in their limits, Juſtices of Peace in their Quarter-ſeſſions, have power to hear and determine the offences aforeſaid (except Treaſon, and Miſpriſion of Treaſon.

Every perſon guilty of any offence againſt this Statute other then Treaſon & Miſpriſion of Treaſon, which ſhall before he be indicted, or at his Arraignment before Judgement, ſubmit and conform himſelf before the Biſhop of the Dioceſs where he ſhall be reſident, and before the Juſtice of Peace where

he ſhall be arraigned or tried, (having not before made like ſubmiſſion) ſhall upon his recognition of ſuch ſubmiſſion in open Aſſiſes or Seſſions in the County where ſuch perſon ſhall be reſident, be diſcharged of all the ſaid offences.

The forfeitures of the moneys limited by this Act ſhall be divided into three equall parts, whereof one third part to the Queen to her uſe, another for the relief of the poor in the Pariſh where ſuch offence is committed, to be delivered by warrant of the principle Officers in the receipt of the Exchequer, without further warrant from her Majeſty; the other third part to ſuch perſon as will ſue for the ſame in any court of Record, in which no Eſſoin, or Protection, or Wager of Law ſhall be allowed. He that ſhall forfeit ſuch ſummes as are ſpecified in this Act, and be not able, or ſhall not pay the ſame within 3. moneths after Judgement, ſhall be committed to priſon and there remain untill he have paid the ſaid ſummes, or conform himſelf to goe to Church.

He that uſually on Sunday ſhall have in his houſe the Divine Service as it is eſtabliſhed, and be thereat uſually preſent, and not obſtinately refuſe to come to Church, and ſhall at leaſt four times in the year be preſent at the Divine Service in his Pariſh Church, or in ſome open Church or Chappell of eaſe, ſhall incur no damage, nor danger by this Act.

Every Grant, Conveyance, Bond, Judgement and Execution, of covetous purpoſe to defraud the Queen, or any other perſon, ſhall be holden utterly void.

Tryall of a Peer for any Treaſon, or miſpriſion of Treaſon, by this Act ſhall be by his Peers.

This Act, nor any thing contained therein (is ſaid) not to extend to take away any, or abridge the authority or juriſdiction of the Eccleſiaſticall Cenſures, for any cauſe, or matter, but that Arch-Biſhops and Biſhops, and other Eccleſiaſticall Judges may do and proceed, as before the making of it.

Stat. 27 Eliz. *cap.* 2. All Jeſuits made within or without the Realm ſince the Nativity of *St. John* the Baptiſt, in the firſt year of the Queen, ſhall within 40. dayes next after the Seſſion of Parliament, if they be not wind-bound, depart out of *England* and other the Queens Dominions.

If any Jeſuit, Seminary Prieſt, or other ſuch Prieſt, Deacon, or Religious or Eccleſiaſticall perſon whatſoever, born within the Dominions of the Queen, and made ſince the feaſt of the Nativity of *St. John* in the firſt year of the Queen, or hereafter to be made by any Authority from the Church of *Rome*, ſhall after the ſaid forty dayes after the Seſſion of Parliament (other then in ſuch ſpeciall caſes as in this Act is expreſſed) be found in any of the Queens Dominions, every ſuch perſon ſhall be adjudged a Traitor.

All they which ſhall receive any ſuch Jeſuit or Prieſt after ſuch time ſhall be adjudged a felon without benefit of Clergy.

If Any Subject of *England* then being, or after ſhall be of, or brought up in any Colledge of Jeſuits, or Seminaries already erected, or to be erected, out of the Realm, ſhall not within ſix moneths next after Proclamation in that behalf made in *London*, under the broad Seal, return into this Realm, and within two dayes after, before the Biſhop of the Dioceſſe, or two Juſtices of the peace of the County where he ſhall arrive, ſubmit himſelf to her Majeſty and her Lawes, and take the Oath ſet forth in the firſt year of her

Reign;

Reign; That then every ſuch perſon which ſhall otherwiſe return, ſhall be taken and deemed as a Traitor.

Whoſoever ſhall any wayes ſend relief to any Jeſuit or Seminary beyond the ſeas, or give any maintenance to any Colledge of Jeſuits or Seminaries, ſhall incur the danger of a *Premunire*.

None during the Queens life ſhall ſend his or her Child, or other perſon (except Merchants, or ſuch only who ſerve in their Trade as Merchants, or Mariners) beyond the Seas, without the Queens ſpeciall licence, or under four of the Councells hands, upon the penalty of one hundred pounds.

Every offence committed againſt this Act may be heard and determined as well in the Kings Bench, as alſo in any County within this Realm, or any of the Queens Dominions where the offence ſhall be committed, or where the offendor ſhall be apprehended.

This Act ſhall not extend to any Jeſuit, &c. before mentioned, as ſhall within the ſaid 40. dayes, or within 40. daies after he come into the Realm, ſubmit himſelf to ſome Arch-biſhop or Biſhop of this Realm, or to ſome Juſtice of Peace within the County where he ſhall arrive, and doe thereupon truly and ſincerely before the Arch-biſhop, Biſhop, or Juſtice of Peace, take the ſaid Oath ſet forth the firſt of *Eliz.* and under his hand confeſſe afterward to continue in due obedience to the Queens Lawes made, or to be made in cauſes of Religion.

Peers ſhall be tried by their Peers for any offence made Treaſon, Felony, or *Premunire* by this Act.

Any perſon being a Subject of this Realm, which ſhall after the ſaid 40. daies know any ſuch Jeſuit, or Prieſt, &c. and ſhall not diſcover the ſame to ſome Juſtice of Peace, or Higher Officer within 12. dayes, every ſuch perſon ſhall be fined and impriſoned according to the Queens pleaſure; and every ſuch Juſtice of Peace, or higher Officer, which ſhall not diſcover the ſame within 28. dayes to ſome of the Queens Councell, or to the Preſident, or Vice-preſident of the Queens Councell eſtabliſhed in the North or Marches of *Wales*, then he or they ſo offending ſhall forfeit 200 Markes.

Such of the Privy Councell, Preſident, or Vice-preſident aboveſaid, to whom ſuch information ſhall be made, ſhall thereupon deliver a note in writing, ſubſcribed by his own hand, to the party by whom he ſhall receive ſuch information, teſtifying that ſuch information was made to him.

All ſuch Oaths, Bonds and Submiſſions as ſhall be made, by force of this Act ſhall be certified into the Chancery, by ſuch Parties before whom the ſame ſhall be made, within three moneths after ſuch ſubmiſſion, upon pain of forfeiture of 100 l. for every ſuch offence to the Queen.

If any perſon ſo ſubmitting himſelf ſhall within 10. years after come within 10. miles of the place where her Majeſty ſhall be, without ſpeciall licence had from her Majeſty under her hand, that then ſuch perſon to have no benefit of ſuch ſubmiſſion.

Enacts, That every Feofment, Gift, Grant, Conveyance, Alienation, Eſtate, Leaſe, Encumbrance, Limitation of uſe, of, or out of any Lands, Tenements, Hereditaments whatſoever had or made ſince the beginning of the Queens Reign, or after, by any perſon who had not repaired, or ſhall not repair to ſome Church, Chappel, or uſuall place of Common-prayer; or which is or ſhall be revokable at the pleaſure of ſuch offendor, or in any wiſe directly or indirectly, intended or meant, to, or for the behooſe or diſpoſition of ſuch *Stat.* 29 Eliz. *cap.* 6.

offendor, or in conſideration whereby his Family may be maintained, ſhall be deemed and taken for utterly void, &c.

Every conviction heretofore recorded for any offence before mentioned, not already eſtreated or certified into the Queens Court of Exchequer, ſhall from the Juſtices before whom the record of ſuch conviction ſhall be remaining be eſtreated and certified into the Exchequer, before the end of the next Eaſter Term in ſuch convenient certainty, for the time and other circumſtances, as the Court may thereupon award out proceſſe for ſeiſure of the Lands and Goods of every ſuch offendor as hath not paid their forfeitures according to Statutes in ſuch caſe provided. And every conviction hereafter for any offence before mentioned, ſhall be in the Court called the Kings Bench, or at the Aſsiſes, or generall Goal-delivery, and not elſewhere, and ſhall from the Juſtices before whom the Record of ſuch conviction ſhall remain, be eſtreated and certified into the Exchequer, before the end of the Term next enſuing after every ſuch conviction, in ſuch convenient certainty as is aforeſaid.

Every offendor in not repairing to Divine Service, and hath been heretofore convict, and not made his ſubmiſſion, and been conformable according to the true intent of this Statute, ſhall without other indictment or conviction pay into the receipt of the Exchequer all ſuch ſummes of money as according to the rate of twenty pounds for every moneth ſince the ſame conviction, in manner following, *viz.* one Moity before the end of Trinity Term, the other Moity before the end of Hilary Term, or at ſuch other times as the Lord Treaſurer, Chancellor, and Chief Baron, or any two of them, ſhall by compoſition upon good ſecurity be limitted before the end of the ſaid Trinity Term, if any ſuch compoſition ſhall happen to be: And ſhall alſo in every Eaſter and Michaelmas Term, untill ſuch time as the ſame perſon do make ſuch ſubmiſſion, pay into the Exchequer 20 l. for every moneth, which ſhall incur in all that mean time.

For default of Payment of the ſaid 20 l. a moneth in every Eaſter and Michaelmas Term, after ſuch conviction, the Queen by proceſſe out of the ſaid Exchequer may take, ſeize and enjoy all the Goods, and two parts as well of all the Lands and Tenements, &c. of ſuch offendor, as of all other Lands and Tenements liable to ſuch ſeiſure, by the true intent of this Act, leaving only a third part for the reliefe of the offender, his Wife Children and Family.

For the more ſpeedy conviction of ſuch offendor, the Indictment ſhall be ſufficient although it be not mentioned, that the offendor was, or is inhabiting within the Realm of *England*, or any other of the Queens Dominions: But if it ſhall happen that any ſuch offendor were not within any of the Queens Dominions, that in ſuch caſe the party ſhall be relieved by plea to be put in, in that behalf and not otherwiſe. And upon Indictment a Proclamation ſhall be made the ſame Aſſiſes or Goal-delivery, that the party indicted ſhall yeeld his body to the Sheriff: and if at next Aſſiſes or Goal-delivery the ſaid party ſhall not make appearance of Record, that then ſuch default ſhall be deemed a ſufficient conviction in Law.

If any ſuch offendor ſhall make ſubmiſsion, and become conformable according to the form of the Statute made in the 23 of *Eliz.* or ſhall fortune to die, that then no forfeiture of 20 l. a moneth, nor ſeiſure of Lands, from and after ſuch ſubmiſſion and conformity, or death, and full ſatisfaction of all

arrearages

arrearages of 20 l. monethly before ſuch ſeiſure due, or payable, ſhall enſue, or be continued againſt ſuch offendor, ſo long as he ſhall continue in coming to divine Service according to the intent of the Statute.

The Lord Treaſurer of *England*, Chancellor, and chief Baron, or any two of them may aſſigne and diſpoſe of the full third part of the twenty pounds for every moneth, paid into the receipt of the Exchequer towards the relief of the Poor, of Houſes of correction, and of impotent and maimed Souldiers.

This Act, or any thing contained in it, doth not in any wiſe extend to make void or impeach any Grant or Leaſe made *bonâ fide*, without fraud or covin, and not revocable at the will and pleaſure of the offendor.

This Act, or any thing contained therein, ſhall not in any wiſe be conſtrued to continue any ſeiſure of any Lands or Tenements of ſuch offendor in her Majeſties hands, after the ſaid offendors death, which Lands or Tenements he ſhall have or be ſeiſed of only for term of life, or in right of his wife.

For the preventing of ſuch great inconveniences and perils as may happen and grow by the wicked practices of ſeditious Sectaries and diſloyall perſons, it was enacted, That every perſon above ſixteen years of age that ſhall obſtinately refuſe to come to Divine Service, eſtabliſhed by Law, and ſhall forbear the ſame by the ſpace of a moneth without lawfull excuſe, or ſhall at any time after fourty dayes after the Seſsion of that Parliament by word or writing adviſedly goe about to move or perſwade any of the Queens Subjects, or any other within her Realms or Dominions, to deny or withſtand her Majeſties power or authority in cauſes Eccleſiaſticall, united and annexed to the Imperiall Crown of this Realm; or ſhall adviſedly perſwade any perſon to forbear coming to Church to hear Divine Service eſtabliſhed; or to come to, or be preſent at any unlawfull Aſſemblies, Conventicles, &c. upon pretence of Religion, contrary to the eſtabliſhed Lawes: Or if any perſon ſhall obſtinately refuſe to repair to ſome uſuall place of Common-prayer, and ſhall forbear to hear Divine Service by the ſpace of a moneth, or ſhall after fourty daies willingly joyn in any ſuch Aſſemblies, Conventicles, &c. under colour of exerciſing Religion, contrary to the Laws of this Realm; That every perſon ſo offending, and being thereof lawfully convict, ſhall be committed to priſon without bail or mainpriſe, untill they conform to come to Church and hear Divine Service according to Law, and make ſuch ſubmiſſion and declaration, as in this Act is afterward declared and appointed. *Stat. Anno 35 Eliz. cap. 1.*

If any perſon who ſhall offend as aforeſaid, ſhall not within three moneths after they be convicted, conform themſelves to the obedience of the Laws, in comming to Church to hear Divine Service, and in making ſuch publick confeſsion and ſubmiſsion as in this Act is appointed, being thereunto required by the Biſhop of the Dioceſſe, or any Juſtice of Peace where the perſon ſhall happen to be, or by the Miniſter or Curate of the Pariſh: that in every ſuch caſe, every ſuch offendor, being thereunto warned by any Juſtice of Peace of the County, ſhall upon his or their corporall oath, before the Juſtices of Peace in the open Quarter-ſeſsions, or at the Aſsiſes abjure the Realm, and all other the Queens Dominions for ever, unleſs her Majeſty ſhall licence the party to return; and ſhall depart out of the Realm at ſuch Port, and within ſuch time as ſhall be appointed by the ſaid Juſtices before whom the ſaid abjuration was made, unleſſe the offendor be letted by ſuch lawfull and reaſonable means, as by the common Lawes are permitted in caſes of abjuration

of Felony; and in ſuch caſes of let or ſtay then within ſuch reaſonable time after as the Common Law requires in caſe of Abjuration for Felony; the Juſtices of Peace before whom any ſuch abjuration ſhall be made, ſhall cauſe the ſame to be preſently entred into record before them, and ſhall certifie the ſame to the Juſtices of Aſſizes and Goal-delivery of the ſaid County at the next Aſſizes.

If any ſuch offender, which by the tenor of this Act is to be abjured, ſhall refuſe to make ſuch abjuration, and ſhall not goe to ſuch Haven within ſuch time appointed, and depart out of the Realm, or after ſuch departure ſhall return without licence; that in ſuch caſe the party offending ſhall ſuffer as in caſe of Felony without benefit of the Clergy.

If any perſon offending againſt this Act, ſhall before he be required, as aforeſaid, to make ſuch abjuration, repair to ſome Pariſh Church on ſome Sunday or Feſtivall, and then and there hear Divine Service, and before Sermon or reading of the Goſpell make publick and open ſubmiſſion and declaration in conformity to the Lawes according to this Act, that then every ſuch penalties inflicted by this Act be diſcharged. The ſubmiſſion to be made is.

I A. B. doe humbly confeſs and acknowledge that I have grievouſly offended God, in contemning her Majeſties Godly and lawfull Government and Authority; by abſenting my ſelf from Church and hearing Divine Service, contrary to the Godly Lawes and Statutes of this Realm; and in uſing and frequenting diſordered and unlawfull Conventicles and Aſſemblies under pretence and colour of exerciſe of Religion. And I am heartily ſorry for the ſame, and do acknowledge and teſtifie in my conſcience, that no other perſon hath or ought to have Authority over her Majeſty. And I doe promiſe and proteſt without any diſſimulation, or any colour or means of any diſpenſation, That from henceforth I will from time to time obey and perform her Majeſties Lawes and Statutes, in repairing to the Church and hearing Divine Service, and do my uttermoſt endeavor to perform the ſame.

The Miniſter of every Pariſh where ſuch ſubmiſion and declaration ſhall be made, ſhall preſently enter the ſame into a book to be kept by every Pariſh for that purpoſe, and within ten dayes after certifie the ſame in writing to the Biſhop of the Dioceſs.

If any ſuch offendor after ſuch ſubmiſion ſhall afterwards relapſe, and obſtinately refuſe to repair to ſome Church, or uſuall place of Divine Service, or ſhall be preſent at any ſuch Conventicles, &c. under colour of exerciſe of Religion, contrary to her Majeſties Lawes: That then every ſuch offendor ſhall loſe the benefit he might have had by virtue of his Submiſion.

If any perſon ſhall hereafter relieve, maintain, or keep in his houſe or otherwiſe any perſon which ſhall obſtinately refuſe to come to ſome Church, or uſuall place of Common-prayer, or ſhall forbear the ſame by the ſpace of a moneth; that then every ſuch perſon ſo offending after ſuch notice given him by the Ordinary of the Dioceſſe, or any Juſtice of Aſsize of the Circuit, or any Juſtice of Peace of the County, or any Miniſter, Curate or Churchwarden of the Pariſh where ſuch perſon ſhall be, ſhall forfeit to the Queen for every perſon ſo relieved after ſuch notice, forty pound for every moneth, that he or they ſhall relieve, &c. any perſon ſo offending.

This Act ſhall in no wiſe extend to puniſh or impeach any perſon for relieving

lieving or keeping his Father, Wife, Mother, Child, Ward, Brother or Siſter, or his Wives Father or Mother, not having any certain place of habitation of their own, or the Husbands or Wives of any of them: or for relieving, maintaining or keeping any ſuch perſon as ſhall be committed by Authority to the cuſtody of any by whom they ſhall be ſo relieved or maintained. Theſe two laſt clauſes are repealed by the 3 *Jac.* 4.

All duties, forfeitures and payments, due to the Queene by virtue of this Act, or the Act of the 23 of *Eliz.* concerning Recuſants, may be recovered and levyed to her Majeſties uſe by action of debt, bill, plaint, information or otherwiſe, in any of the Courts called the Kings bench, Common-pleas, or Exchequer, in ſuch ſort as by the ordinary courſe of the Common-Law, any other debt due by any perſon in any other Caſe might be recovered or levyed, where no Eſſoin, Protection or Wager of Law bee admitted.

The third part of the Penalties had or received by virtue of this Act, ſhall be imployed and beſtowed to ſuch good and charitable uſes, in ſuch manner and forme as is limited and appointed in the Statute made in the 29 *Eliz.* c. 6. concerning Recuſants.

No popiſh Recuſant or feme covert ſhall be compelled to abjure by this Act. Every perſon that ſhould abjure by virtue of this Act, and refuſe, being thereunto required as aforeſaid, ſhall forfeit to the Queene all his goods and chattels for ever, and his Lands and Tenements during life; the wife of any ſuch offendor ſhall not loſe her Dowre, nor any corruption of blood ſhall grow or be, by reaſon of any offence mentioned in this Act.

Every Perſon above ſixteene yeeres of age, borne within any of the Queenes Dominions, or made a Denizen, being a popiſh Recuſant, and before the end of that Seſſion of Parliament, convicted for not repairing to ſome Church or uſuall place of Divine-ſervice, but forbearing the ſame, contrary to the Lawes eſtabliſhed, and having a certain place of abode within the Realme, ſhall within forty dayes next after the Seſſion of Parliament (if they be in the Realme, and not reſtrained by impriſonment, or by command of her Majeſty, or by order of ſix or more of the Privy-Councell, or by ſuch ſickneſſe and infirmity of body, that they ſhall not be able to travell without imminent danger of their life, and in ſuch caſes of abſence out of the Realm, reſtraint or ſtay, then within two daies next after they ſhall returne into the Realm, and bee enlarged of ſuch impriſonment, or ſhall be able to travell) repair to their uſuall place of abode, and ſhall not at any time after remove above five miles from thence. *Stat.* 35 Eliz. *cap.* 2.

Every perſon born in any of the Queens Dominions, or Denizen, which had, or ſhould have any certain place of abode within this Realm, which being a Popiſh Recuſant, and thereof lawfully convict for not repairing to ſome Church or uſuall place of Divine Service, and being within the Realm at the time they ſhall be convicted, ſhall within fourty dayes after ſuch conviction (if they be not reſtrained by impriſonment or otherwiſe, as aforeſaid; and in ſuch caſes of reſtraint, then within twenty dayes after they ſhall be enlarged, or be able to travell) repair to the place of their uſuall dwelling, and not at any time after remove above five miles from thence, upon pain of forfeiture of all his Goods and Chattels, and all his Rents, Lands, Tenements and Hereditaments to the Queen during the life of the offendor.

Every

Every Perſon above ſixteene yeeres of age, borne in any of the Queenes Dominions, who hath no certain place of abode within the Relme, and being a popiſh Recuſant, and not uſually repairing to ſome Church, or uſuall place of Common-prayer, but forbearing the ſame, contrary to the Lawes eſtabliſhed, ſhall within 40 daies after the Seſsion of Parliament (if they be within the Realm, and not impriſoned or ſtayed as aforeſaid, and in ſuch caſe of abſence out of the Realm, impriſonment or ſtay, then within twenty dayes after returne into the Realm, and be enlarged, or able to travell) repaire to the place of byrth, or where the Father or Mother of ſuch perſon ſhall then bee dwelling, and ſhall not remove above five miles from thence, upon paine of forfeiting all his goods and chattels, and all his Lands, Tenements, Hereditaments, Rents and Annuities to the Queene, during the life of the Offendor.

Every offendor aforeſaid that hath Lands or Tenements, by copy of Court-Roll, &c. ſhall forfeit all ſuch copy-hold eſtates, during the life of the offendor (if his eſtate ſo long continue) to the Lord, of whom they are immediatly holden (if the Lord be not a popiſh Recuſant, nor convicted for not coming to Divine Service, nor ſeized upon truſt for ſuch Recuſant) and in ſuch Caſe the forfeiture to bee to the Queenes Majeſty.

All ſuch Perſons as by this Act are to make their repaire to their place of dwelling, or to the place of their byrth, or where their Father and Mother ſhall be dwelling, and not to paſſe above five miles from thence, ſhall within twenty dayes after their comming to any of the ſaid places, notifie their coming thither, and preſent themſelves, and deliver their true names in writing to the Miniſter and Curat of the Pariſh, and to the Conſtable, Headborough or Tything-man of the Town, and thereupon the Miniſter or Curate ſhall preſently enter the ſame into a booke to be kept in every pariſh for that purpoſe; and afterward the ſaid Miniſter or Curate, and the ſaid Conſtable, Headborough or Tything-man, ſhall certifie the ſame in writing to the Juſtices of Peace of the ſame County, at the next quarter Seſſions and the ſaid Juſtices ſhall enter or cauſe the ſame to be entred by the Clerke of the Peace in the Rolls of the ſame Seſſions.

Every popiſh Recuſant (not being a Feme covert, and not having a ſtate of inheritance of free-hold to the cleere yeerely value of twenty marks, or in goods and chattels to the value of forty pounds) that ſhall not within the limited time repaire to the uſuall place of his abode, or to the place of his birth, or the dwelling of his Father or Mother; and thereupon notifie their coming, and preſent themſelves, and deliver their true names in writing to the Miniſter or Curate of the Pariſh, and to the Conſtable, Head-borough or Tything-man of the Towne, within ſuch time, and in ſuch manner as aforeſaid, or ſhall after remove five miles from thence, and ſhall not within three moneths next after ſuch perſon ſhall be apprehended, conform himſelf to reſort uſually to divine Service, and in making ſuch publique confeſſion and ſubmiſſion, as hereafter is expreſſed, being thereunto required by the Biſhop of the Dioceſſe, or any Juſtice of Peace in the County where the ſame perſon ſhall chance to be, or by the Miniſter or Curate of the Pariſh; That in every ſuch caſe, every ſuch offendor, being thereunto warned by any two Juſtices of Peace, or Coroner of the County where ſuch offendor ſhall be, ſhall upon his corporall Oath before any two Juſtices of Peace or Coroner or the ſame County, abjure this Realme, and all Dominions of the Queenes for ever,

ver, and thereupon ſhall depart the Realm in ſuch time as ſhall be aſsigned by the ſaid Juſtices or Coroner, unleſſe hindred by ſuch reaſonable means, as by the Common Law is allowed in caſes of abjuration of felony; and in ſuch caſes within ſuch reaſonable time after as the Common Law requireth in caſe of abjuration of felony.

Every Juſtice of Peace and Coroner before whom any ſuch abjuration ſhall happen to be made, ſhall preſently cauſe the ſame to bee entred of Record before them, and ſhall certifie the ſame to the Juſtices of Aſſize, or next Goale delivery of the ſaid County.

If any ſuch offender, which is to be abjured, ſhall refuſe to make abjuration, or after abjuration ſhall refuſe to goe to ſuch Haven within the time appointed, and depart the Realme, or after ſhall returne without licence from the Queen; that then, in every ſuch caſe, the perſon offending ſhall ſuffer as a Felon, without benefit of the Clergy.

Every perſon ſuſpected to be a Jeſuite or Seminarie-Prieſt, who being examined by lawfull authority, and refuſes to anſwere directly whether he be a Jeſuite or not, ſhall be committed to priſon without baile or mainprize, untill he anſwere directly.

Every perſon confined as aforeſaid to the compaſſe of five miles, that hath neceſſary occaſion of buſineſſe, upon licenſe from two Juſtices of the Peace in the ſame County, under their hands, with the aſſent of the Biſhop of the Dioceſſe in writing, or of the Lieutenant, or of any deputy Lieutenant of the ſame County, may travell about his neceſſary buſineſſe, for ſuch time only as is contained in the Licenſe.

No perſon ſo reſtrained as aforeſaid, which ſhall be urged by Proceſs without fraud or covin, and be bound to make appearance in any of her Majeſties Courts, or ſhall be ſent to by three or more of her Majeſties Councell, or by foure or more Commiſſioners appointed by her Majeſty to make appearance before her Councell or Commiſſioners, in every ſuch caſe ſhall incur any forfeiture or loſſe for travelling or making appearance accordingly.

Every perſon ſo reſtrained, as aforeſaid, ſhall be bound to yeeld their bodies to the Sherif of the County, upon Proclamation in that behalfe made, nor ſhall incurre any penalty for ſo doing.

If any perſon which ſhall offend againſt this Act, ſhall before he be thereof convict, come to ſome pariſh Church on ſome Sunday, or Feſtivall day, and then heare divine Service, and at Service time, or at the reading of the Goſpell, make open ſubmiſsion and declaration of his conformity to the Queenes Lawes, as hereafter is declared, that then every ſuch offendor ſhall be cleerly diſcharged. The forme of the ſubmiſsion is,

I A. B. *doe humbly confeſſe and acknowledge, That I have grievouſly offended God, in contemning her Majeſties godly and lawfull government and authority, by abſenting my ſelfe from Church, and from hearing Divine Service, contrary to the godly Lawes and Statutes of this Realm; and am heartily ſory for the ſame; and doe acknowledg and teſtifie in my Conſcience, That the Biſhop or See of* Rome *hath not, or ought to have any power or authority over her Majeſty, or within any of her Majeſties Dominions or Realmes: And I do promiſe and Proteſt without diſſimulation, or any colour or meanes of diſpenſation, That from henceforth I will from time to time obey and performe her Majeſties Lawes and Statutes, in repairing to Church, and hearing Divine Service, and doe my utmoſt endeavor to maintain and defend the ſame.*

The Miniſter or Curate of every pariſh where ſuch ſubmiſsion ſhall bee made, ſhall preſently cauſe the ſame to be entred into a booke to be kept in every Pariſh for that purpoſe, and within ten dayes after ſhall certifie the ſame to the Biſhop of the Dioceſs.

Every offendor that ſhall after ſuch ſubmiſsion, relapſe and become Recuſant, in not repairing to Church to heare Divine ſervice as aforeſaid, ſhall loſe all benefit he might have enjoyed by ſuch ſubmiſsion.

Every woman married ſhall be bound by every article, branch and matter conrained in this Act, other then the branch or article of abjuration, nor ſhall any woman married be compelled to make abjuration.

Of the Reformation made by Queen Elizabeth.

The Pope did reject the Queen before the Queen rejected the Pope

QUeeen *Mary* dying upon the 17. *Novemb.* 1558. the ſame day both Houſes of Parliament without any contradiction did acknowledge and receive *Elizabeth* to be the true and undoubted Heir to the Crown of *England*, and without delay with ſound of Trumpet diſſolved the Parliament: for that being called by Queen *Mary* could have no being, or continue after her death. The Queen cauſed an account to be given of her aſſumption to the Pope (who was *Paulus Quartus*) with letters of Credence to Sir *Edward Cerne*, who was Ambaſſador to her Siſter and not departed from *Rome*. But the Pope was ſo far from acknowledging her, that he anſwered, that that Kingdome (*viz.* of *England*) was held in Fee of the Apoſtolick See, that ſhe could not ſucceed being illegitimate; that he could not contradict the Declaration of *Clement* the Seventh, and *Paul* the Third; that it was a great boldneſs to aſſume the name of Government without him; that for this ſhe deſerved not to be heard in any thing; yet being deſirous to ſhew a fatherly affection, if ſhe will renounce her pretenſions, and refer her ſelf wholly to his free diſpoſition, he will doe whatſoever may be done in the honor of the Apoſtolick See. * And afterwards he commanded Sir *Edward Cerne*, who had continued Ambaſſador at *Rome* for Henry the Eighth, Queen *Mary*, and then for Queen *Elizabeth*, to lay down his office of Ambaſſador (that I may uſe his own very words ſayes the Author) by force of a *Mandat* made by Lively voice from the Oracle of our moſt Holy Lord the Pope, by virtue of holy obedience, and under pain of the greater Excommunication, and alſo of loſſe of all his goods, that he ſhould not depart out of the City, but undertake the Government of an Hoſpitall of the *Engliſh*. * It is true Indeed that *Pius* 4. (a man of much more moderate diſpoſition then his Predeceſſor) did in the year 1560. by Letters, ſent by *Vincentius Parpalio* Abbot of St. *Saviours* to her full of humanity, not only acknowledge her Queen of *England*, and invited her to return into the boſome of the Church, but alſo (as the report went) promiſed to recall the ſentence pronounced againſt her Mothers Marriages as unjuſt, to confirme the book of Comon-prayer in Engliſh by his authority, and to permit the uſe of the Sacrament in both kinds to the People of *England*, in caſe ſhe will joyn her ſelf to the Church of *Rome*, and acknowledge the Primary of the Roman See. * And afterwards in the year 1561. in Letters full of affection by Abbot *Martinego*, he invited her to the Councell of *Trint*, *Camb. Eliz. Reg.* 68. 69. but matters were ſo far thruſt off the hinges, that not only *Parpa-*

Hiſt conc. Trint. 411.

Camb. Eliz. Reg. Pag. 28.

Camb. Eliz. Reg 58. 59.

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lia returned without any fruit, but *Martinego* was denied access into *England*.

Not only the Arch-bishop of *York*; but all the other Bishops (except *Carlile*) did refuse to Crown the Queen, both because she had been instructed in the Protestant Religion, and because she had forbidden the Arch-bishop of *York* a little before he was to celebrate Divine service; to elevate the Host for adoration, and had suffered the Letany with the Epistles and Gospel to be used in the popular tongue. It is no wonder therefore if the Parliament which happened immediately after, and the Commons especially, who once usually swayed only by passion and affecton, and much averse from the Religion of the Church of *Rome*, did endue the Queen with such plentifull power, as to make her supreme Governor (the title of Head was waved) in all causes, as well Spirituall as Temporall.

The Bishops except *Carlile* refuse to crown her.

This power the Queen well understanding, & what advantage would be made thereof by her adversaries, did by Proclamation, and after by her Injunctions declare, that she took nothing upon her more, then what anciently of right be longed to the Crown of *England*, to wit that she had supreme power and jurisdiction under God over all sorts of people within the Kingdome of *England*, whether they be Ecclesiasticall or Lay persons; and that no forrein Power hath or ought to have any jurisdiction or authority over them. *Camb. Eliz. Reg.* 39. 40.

How far the Queen did declare her Power in Ecclesiasticall matters.

In the 37. Article of the Church of *England* she declares, *We give to Our Princes that Prerogative which we see in holy Scripture always given to all godly Princes by God himself, to rule all estates and degrees of men committed to their charge by God, whether they be Ecclesiasticall or Temporall, and to restrain with the sword all stubborn and evill doores.*

How far the Church of *England* declares the Prerogative of Princes.

But whatsoever the Queene or Church did declare, the Lawyers would not lose so much Grist as this Stat. of the first of *Eliz.* brought to their Mill, and therefore the fourth conclusion in the 3 part *Institutes* 43 is, That when an Act of Parliament is made concerning things meerly spirituall, as Heresie, &c. yet the Act, being part of the Lawes of the Land, the same shall be construed and interpreted by the Judges of the Common-Law, who usually confer with those that are learned in that profession, so that all Spirituall jurisdiction doth utterly vanish, whensoever the Temporall power shall doe any thing in derogation of it; and in truth ever since the Statute of the first of *Elizabeth*, all cognizance not only of Heresie, &c. but the cognizance of the worship and service of God, and administration of Sacraments, have (upon the matter) beene determined at quarter-Sessions and assizes, and since ths uniting of all forraigne jurisdiction in the Crowne, many places in *England*, that were not in ordinary Episcopall jurisdiction, and immediatly under the *Pope*, are become out of all cure of Soules, and for ought can be known, are not any part of any Christian Church.

The Lawyers exception of the Statute of 1 *Eliz. cap.* 1.

If the Queen be supreme Governor in all Spirituall cases under Christ, then are not Bishops and Priests immediately Christs Ministers, but the Queens: Nay then may she ordain, confirm, and consecrate the Sacraments, which the Church of England, Art. 37. *& King* James Spot. Hist. anno 7 Regni *doth deny.*

The preamble of the first of *Eliz. cap.* 1. Is a supplication of the Lords Spirituall and Temporall, and Commons, that those things therein might be passed into a Law, whereas the Lords Spirituall [a] being nine (nor were there then fourteene alive) and all who were present not only stiffly opposed it,

Observable things in the 1. & 2. chap. 1 *Eliz.*

[a] *Camb. Eliz. Reg.* 16.

it, but were all of them deprived because they would not conform thereunto, and take the Oath of Supremacy made by that Act. * In the 2. *chap.* 1. *Eliz.* there is a very strange clause: *viz.* The Queenes Majesty, the Lords Temporall, and Commons assembled, doe in Gods name, earnestly require and charge all Arch-Bishops and Bishops, and other Ordinaries, that they endeavor themselves to the utmost of their knowledge, that the due execution of that Law may be had throughout their Dioceses and Charges, as they will answere before God, for such evills and Plagues, wherewith God may justly punish his people for neglecting this good and wholsom Law; and yet the Temporall powers by this very Law, have power to heare and determine all things in it as well as the Spirituall; whereas *Preces & lachrimæ sunt arma Ecclesiæ*, all alwaies the Church formerly did supplicate protection from the temporall powers.

Pag. 36.

By what degree Religion was changed.

The Queene did not make an alteration and change in the Religion and Service of God on a suddain, but by degrees; for, for a whole moneth or more after the death of Queene *Mary*, the Roman Religion continued in the same state it did before; upon the twenty seventh of *December*, leave was granted to have the Epistles, Gospells, ten Commandements, the Lords Prayer, Creede and Letany in the English tongue. The two and twentieth of *March*, when the Nobles and Commons were met in Parliament, the entire use of the Lords Supper, *viz.* in both kindes, was allowed, and the Law made to that intent in *Edward* the sixts dayes, revived and put in new force. The twenty fourth of *June* the Sacrifice of Masse was abolished, and the Liturgy in the English Tongue established by Parliament. In *July* the Oath of Supremacy was propounded to the Bishops and others; and in *Aug.* Images were removed out of Churches, and broken or burnt, *Cambd. Eliza. Reg.* 39.

How the Laws made for conformity to the Service of the Church were observed.

From the first of *Eliz.* untill the eleventh yeere of her Reigne, no person of what perswasion soever, at any time refused to come to the publique Divine Service celebrated in the Church of *England*, (being so evidently grounded upon the sacred and infallible word of God, that the Bishop of *Winchester* in his answere to *Tortus*, *page* 42, is not afraid to affirme positively that the Pope *Paulus quartus* [which is misprinted, for it should have been *Pius quartus*] if the Queene would have acknowledged his authority, would have been so kinde as to have established all the Rites and Ceremonies now used in the Church) untill the Bull published against the Queene by *Pius* the Fift, whereby he excommunicated her, and deprived her of her Kingdome, and forbad all her Subjects, upon like penalties, to be so hardy as to obey her Admonitions, Lawes or Commandements, and did absolve all men, who had upon any occasion taken their oath to her, of all fealty and service due unto her by reason of her Government; which Bull produced no other effect then the severe Statute made the thirteenth yeere of the Queene, against all men, who should endeavor to put it or any such in ure or execution, or should receive or take any absolution or reconciliation from the Church of *Rome*. But afterward these Parliament Laws, for the conforming to Divine Service established, became as much disobeyed by another genetation of men called Puritans, and therefore the Statute of the thirty fift of *Elizabeth cap.* 1. was made expressly against them; yet would they never be restrained, untill they upon pretence of Reformation, brought a desolation upon both Church and State.

Shee

Shee was truly pious, who daily as ſoone as ſhe roſe, ſet a part ſome time for the worſhip and ſervice of God, afterwards at ſet houres retired her ſelfe into her private Cloſet, frequented the Chappell duly upon Sundaies and holydaies, nor was there ever any Prince that with greater devotion was preſent at divine Service: In black aray, and after the manner of the former ages, ſhe heard attentively Lenten Sermons, although ſhe would often ſay what ſhe had read of *Hen.* 3 her predeceſſor, *That ſhe had rather devoutly ſpeak to God in Prayer, then hear others diſcourſe eloquently of God in their Sermons*; and of the Croſs, the bleſſed Virgin, and of the Saints, ſhee thought reverently, nor did ſhee ever ſpeake of them without a certain reverence, nor patiently heare others ſpeake of them without the like; * to theſe may juſtly be added a wiſdome and prudence in Government ſo far above her ſex, that certainly ſhee, in that kinde is not to be paralell'd by any of her maſculine predeceſſors: and theſe vertues were crowned with that felicity, that all along her long Reigne ſhee was moſt paſſionately and obſequiouſly honoured by her Subjects, (a rare thing among Iſlanders, and not to be found in any time before her, in any of her Predeceſſors.) Yet ſure ſhe was rather carefull to conſerve peace at home then to maintain it abroad, and was more mindfull of the preſent age, then of poſterity: and ſure that King that ſucceeded her, might juſtly expect to finde a hard taske ſo to Govern as to preſerve the love and obedience ſhee had; for beſides her prudence and frugality in Government and expences, ſhe was ſingle & had not any kindred in the Nation which were any charge to her; whereas the King ſucceeding, not only having a Queen, but alſo Poſterity muſt multiply expence, whereby hee ſhall loſe the affections of his Subjects, from whom it muſt be raiſed, or abate of the magnificennce, which is neceſſary for the repuration and Regality, and which every Monarch ought eſpecially to be carefull of; for, Where Majeſty or Power is contemptible, the exerciſe of them is never permanent.

Of the vertues of Queen *Eliz.*

Camb Eliz. Reg. 14.

Eccleſiaſticall Lawes made by King James.

THis Statute doth Enact, That all Statutes made by Queene *Elizabeth* againſt all Jeſuites, Prieſts and Seminaries, made in the Church of *Rome*, and all thoſe Statutes made againſt all manner of Recuſants be put in due and exact execution.

Anno 1. Jac. *cap.* 4.

Every Recuſant that ſhall conforme himſelfe to the Lawes and Ordinances of the Church of *England*, and repaire to Church and continue there during the time of divine Service and Sermon, according to the true intent of the ſtatute in that caſe made in the time of Queen *Elizabeth*, ſhall be diſcharged from all penalties of Recuſancy, ſo long as he continues in ſuch obedience and conformity.

The heir of any Recuſant, who is no Recuſant, ſhall not incur any penalty for the Recuſancy of his anceſtor; if at the death of any Recuſant the heire of the Recuſant be a Recuſant, and after become conformable to the Lawes and Ordinances of the Church, and take the oath of Supremacy made in the firſt yeere of Q. *Eliz*, before the Archbiſhop or Biſhop of the Dioceſs, then every ſuch heir ſhall be diſcharged of all penalty hapning in reſpect of the Recuſancy of his Anceſtor.

If

If the Heire of any Recuſant bee within the age of ſixteene yeeres at the death of his Anceſtor, and after become, or bee a Recuſant, that then hee ſhall not bee diſcharged from the penalty of Recuſancy, untill hee ſubmit to the Lawes and Ordinances of the Church, and take the ſaid oath of Supremacy in manner and form expreſſed.

35 Eliz. *cap.* 1. Where any ſeiſure ſhall be had of the 2 parts of any Lands or Tenements, &c. for the not payment of the 20. l. due and payable for each moneth, according to the Statute in that caſe lately made, * in ſuch caſe two third parts ſhall goe to the payment of the ſaid twenty pound a moneth, the third part ſhall not be extended by the King, nor forfeited by the Recuſant; where any ſeiſure hath beene made by the King, and the debt or duty by reaſon of Recuſancy not paid, then the King may continue the ſeiſure untill the reſidue of the debt be fully ſatisfied and diſcharged. The King and his Heirs ſhall not ſeize nor extend any third part deſcending to any ſuch heirs, or any part thereof, either by reaſon of the Recuſancy of ſuch heir, or the Recuſancy of his Anceſtor.

Every perſon under the Kings obedience, which at any time (after the end of the ſeſsion of that Parliament) ſhall ſend any childe, or other perſon under his Government, into any parts beyond the Seas, out of the Kings obedience, to be reſident in any Colledg, or houſe of any popiſh Order or Profeſſion whatſoever, or repair to the ſame to be inſtructed in the popiſh Religion, or in any ſort to profeſſe the ſame, ſhall for every ſuch offence forfeit to the King the ſumme of one hundred pounds, and every perſon, ſo paſſing or ſent beyond the Seas, in reſpect of himſelfe or her ſelfe only, and not in reſpect of his or her poſterity, be made incapable to inherit or purchaſe in any of the Kings Dominions.

If any perſon borne in any of the Kings Dominions, at the making of this Act, were in any ſuch houſe or Colledg, to be inſtructed in the popiſh Religion, and ſhould not return into ſome of his Majeſties Dominions within one yeere next after the ſeſſion of that Parliament, and ſubmit himſelf as is aforeſaid, ſhall be in reſpect of himſelfe only, and not in reſpect of his heirs and poſterity, utterly uncapable of inheriting or purchaſing within any of the Kings Dominions. Provided that if any ſuch perſon ſhall afterward become obedient and conformable to the lawes and ordinances of the Church of *England*, and repaire to Church, according to the true intent of the ſaid ſtatutes and ordinances, and continue ſo to doe; that then every ſuch perſon ſhall be diſcharged of ſuch diſability.

No woman, nor any childe under the age of twenty one yeeres (except Saylors and Ship-boyes, or the Apprentice or Factor of ſome Merchant in trade of Merchandize) ſhall be permitted to paſſe over the Seas (without Licenſe from the King, or ſix or more of the privy Councell under their hands) upon paine that the officers of the Port that willfully or negligently did ſuffer any ſuch to paſſe, and did not enter the names of ſuch paſſengers ſo licenſed, ſhall forfeit their office, and all their goods and chattels and that every owner of any ſhip or veſſell that ſhall willfully carry over ſeas any ſuch perſon without licenſe, ſhall forfeit his ſhip or veſſell and all the tackle: and every Mr. or Mariner, of or in any ſuch ſhip offending as aforeſaid ſhall forfeit all their goods, and ſuffer impriſonment by the ſpace of 12 moneths, without baile or mainprize.

No perſon ſhall keepe any Schoole, or be a Schoole-maſter, out of any of the

the Univerſities or Colledges of this Realme, except it bee in ſome publicke or free Grammer-Schoole, or in ſome ſuch Noblemans or Noblewomans, Gentlemans or Gentlewomans houſe, as are not Recuſants, or where the ſaid ſame Schoole-Maſter ſhall not be licenſed by the Archbiſhop, Biſhop, or Guardian of the Spiritualties of that Dioceſſe, upon paine that as well the ſchoole-maſter, as the party that entertains him, ſhall forfeit for every day ſo offending the ſum of forty ſhillings, the one halfe to the King, the other to him who ſhall ſue for the ſame, in any of the Kings Courts of Record in *Weſtminſter*, by Action of Debt, Bill, Plaint, or Information, in which no Eſſoine, Protection or wager of Law ſhall be allowed.

Becauſe ſome popiſhly affected did repaire to Church monethly, whereby they did evade the penalties impoſed by precedent Parliaments, as is alledged; It was therefore Enacted That if any Recuſant ſo conformed, ſhall not once a yeere at leaſt after the Seſſion of Parliament receive the Sacrament, in the Church of that pariſh where he or ſhe uſually abides, or if there be no Church, then in the Church next adjoyning, ſhall forfeit for the firſt yeere the ſumme of twenty pounds, for the ſecond yeere forty pounds, and for every yeere after the ſumme of ſixtie pounds, untill hee or ſhee ſhall receive the Sacrament as aforeſaid; and if he or ſhe, who hath received the Sacrament as aforeſaid, ſhall after offend in not receiving the Sacrament as aforeſaid, by the ſpace of one whole yeere; that then he ſhall forfeit for every ſuch offence the ſumme of ſixty pounds, the one moity to the King, the other to him who will ſue for the ſame in any of the Courts of Record in *Weſtminſter*, or before any Juſtices of Aſſize, or before Juſtices of Peace at their generall Quarter-Seſſions, by Action of Debt, Bill, Plaint, or Information, wherein no Eſſoyne, Protection or Wager of Law ſhall be allowed. *Stat. Anno. 3. Iac. cap. 4.*

The Churchwardens and Conſtables of every Towne, Pariſh or Chappel for the time being, or ſome one of them, or if there be none, then the chief Conſtables of the Hundred where ſuch Town, Pariſh or Chappell is, or one of them, as well in places exempt as not exempt, ſhall once every yeere, preſent the monthly abſence from Church of all popiſh Recuſants, within ſuch Townes and pariſhes, and ſhall preſent the names of every of the children of the ſaid Recuſants, being above the age of nine yeeres, and (as neere as they can) the age of the ſaid children, as alſo the names of the Servants of the ſaid Recuſants, at the next generall or quarter-Seſſions of that ſhire, limit, diviſion or liberty.

All ſuch Preſentments ſhall bee Recorded in the ſaid Seſſions, by the Clerke of the Peace, or Towne-clarke for the time being, without any Fee; and for default of every, ſuch Preſentment, the ſaid Churchwardens, Conſtables, or High-conſtables ſhall forfeit twenty ſhillings, and for default of recording ſuch preſentment without a Fee, the Clerke of the Peace, or Town-clerke ſhall forfeit 40. s.

Every Preſenement made by any Churchwarden, conſtable or High-conſtable as aforeſaid, whereby any Recuſant ſhall happen to be convicted, ſhall be rewarded by having 40. s. to be levyed out of ſuch Recuſants goods and eſtate, in ſuch manner as by the more part of the Juſtices ſhall be ordered by warrant under their hands and ſeales.

The Juſtices of Aſſize, and Juſtices of Quarter-ſeſſions have power to heare and determine of all Recuſants, as well for not receiving the Sacrament

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as for not coming to Church; and have alſo power to make Proclamation, that the body of every ſuch offendor ſhall be rendred to the Sheriff of the county, or the Baylif or keeper of the Goale of the liberty, before the next Aſſizes, Generall or Quarter-ſeſsions; and if then the offendor ſhall not make his appearance upon Record, that every ſuch default ſhall be deemed as a ſufficient conviction by verdict of 12 men.

This Statute recites the penalties impoſed by the 29 *Eliz.* 6. upon a Recuſant convict, and that every conviction ſhall be certified into the Exchequer, as is in the ſtatute of 23 *El.* 1. concerning Recuſants monethly forfeitures; yet by this ſtatute the King may refuſe the 20 l. a moneth, and take the 2 parts of the Recuſants lands, yet the King ſhall not take into his two parts the Manſion houſe, nor ſhall demiſe, nor leaſe over the 2 third parts, or any part thereof to any Recuſant, nor to the uſe of any Recuſant: and whoſoever ſhall take any leaſe of the King, of ſuch lands, ſhall give ſuch ſecurity as the Court of Exchequer ſhall allow, not to ſuffer any waſte to be committed upon the Premiſſes.

For the better tryall how the Kings ſubjects ſtand affected in point of loyalty and due Obedience, it is Enacted, That after the end of the ſeſſion of Parliament, any Biſhop of the Dioceſſe, or any two Juſtices of peace, whereof one of the *Quorum*, within the juriſdiction of their ſeſſions, may require any perſon of the age of 18 yeeres or above, being or which ſhall bee convict or indicted for any Recuſancy (except noblemen and noble women) for not repairing to Divine ſervice according to law, or have not received the Sacrament twice within the yeere next paſt, or any perſon paſſing through the County or Liberty and unknowne, (except as is before excepted) that being examined by them upon oath ſhall confeſſe or not deny himſelf to be a Recuſant, or ſhall confeſſe or not deny that he hath not taken the Sacrament twice within the yeere to take this Oath hereafter upon the holy Evangeliſts, which ſaid Biſhop or two Juſtices ſhall certifie in writing ſubſcribed with his or their hands, at the next generall or Quarter-ſeſſions, the Chriſtian name, Sirname and place of abode of every perſon which ſhall take the ſaid Oath; which Certificate ſhall be there Recorded and kept among Records of the ſaid ſeſſions.

If any perſon (other then noblemen and noble women) ſhall refuſe to anſwere upon Oath to ſuch Biſhop or Juſtices of Peace, or take the ſaid Oath duely tendred, then the ſaid Biſhops or Juſtices of Peace ſhall commit the ſame perſon to the common Goale without Baile or Mainprize, untill the next Aſſizes or quarter Seſſions, where the ſaid Oath ſhall be againe tendred unto them by the Juſtices of Aſſize or Juſtices of Peace, or the greater part of them; and if ſuch perſon ſhall then refuſe to take the Oath, he ſhall incur the penalty of a *præmunire*, except women Covert, who upon refuſall ſhall only be committed to the common Goale there to remain without bail or mainprize, untill they take the ſaid Oath.

The Tenour of the Oath.

I A. B, *Doe truly and ſincerely acknowledg, profeſſe, teſtify and declare in my Conſcience before God and the World, that our Soveraign Lord King* James *is lawfull and rightfull King of this Realm, and of all other his Majeſties Dominions and Countries, and that the Pope neither of himſelfe, nor by any Authority*

of

of the Church or See of Rome, *or by any other meanes with any other, hath any power or authority to depoſe the King, or to diſpoſe of any of his Majeſties Kingdomes or Dominions, or to authorize any forreigne Prince to invade or annoy him or his Countries, or to diſcharge any of his ſubjects of their Allegiance and Obedience to his Majeſty, or to give licence or leave to any of them to beare Armes or raiſe tumults, or to offer any violence or hurt to his Majeſties Royall Perſon, State or Government, or to any of his Majeſties Subjects within his Majeſties Dominions.*

Alſo, I ſweare from my heart, that notwithſtanding any Declaration or Sentence of Excommunication or Deprivation made or granted, or to be made or granted by the Pope or his Succeſſors, or by any authority derived, or pretended to be derived from him or his See againſt the ſaid King, his Heires and Succeſſors, or any abſolution of the ſaid Subjects from their obedience: I will beare faith and true Allegiance to his Majeſty, his Heirs and Succeſſors, and him and them will defend to the uttermoſt of my power, againſt all conſpiracies and attempts whatſoever, which ſhall be made againſt his or their Perſons, their Crowne and Dignity, by reaſon or colour of any ſuch Declaration or Sentence, or otherwiſe, and will doe my endeavor to diſcloſe and make known unto his Majeſty his Heirs and Succeſſors, all Treaſons and Traitrous Conſpiracies, which I ſhall know or heare of, to be againſt him or any of them.

I doe farther ſweare, That I doe from my heart abhorre, deteſt and abjure as impious and Hereticall, this damnable Doctrine and Poſition, That Princes which be excommunicated or deprived by the Pope, may be depoſed or murdered by their Subjects or any other whatſoever.

And I doe beleeve, and in my Conſcience am reſolved, That neither the Pope nor any perſon whatſoever, hath power to abſolve me of this Oath, or any part thereof, which I acknowledg by good and full authority to be lawfully miniſtred unto me, and doe renounce all Pardons and Diſpenſations to the contrary. And all theſe things I doe plainly and ſincerely acknowledg and ſweare, according to theſe expreſſe words by mee ſpoken, and according to the plaine and common ſenſe and underſtanding of the ſame Words, without any Equivocation or mentall Evaſion, or ſecret reſervation whatſoever, And I doe make this Recognition and acknowledgment heartily, willingly and truly, upon the Faith of a Chriſtan.

So helpe me God.

Unto which Oath, ſo taken, the ſaid Perſon ſhall ſubſcribe his or her name or marke.

No Indictment to be had or found for not repairing to Church, or for not receiving the Sacrament according to Law, nor any Proclamation, Outlawry or other proceeding thereupon ſhall be avoyded, diſcharged, reverſed for default of forme (other then by direct Travers to the point of not coming to Church, or not receiving the ſaid Sacrament.)

If any Perſon ſo Indicted, afterward ſubmit and conform himſelfe, and become obedient to the Lawes of the Church of *England*, and heare Divine Service according to the Statute in that caſe made, and publiquely receive the Sacrament, according to the Lawes of this Realm, that then every ſuch perſon may reverſe and diſcharge the ſaid Indictment.

Every ſubject of this Realme, that ſhall paſſe out of this Realme, and voluntarily ſerve any forreign Prince, State or Potentate, not having taken this Oath, as aforeſaid, ſhall be a felon.

If any Gentleman, or perſon of higher degree, or any perſon or perſons

which hath born, or ſhall bear any office of Captain, Lieutenant or any other Office in Camp, Army or Company of Souldiers, ſhall after voluntarily ſerve any foreign Prince, State, or Potentate, before he ſhall become bound by obligation, with two ſuch ſureties as ſhall be allowed by the Officers, which by this Act are limited to take ſuch bond unto the King in the ſumme of 20 l. at leaſt, with condition to the effect following, ſhall be a Felon.

The Tenor of the Condition followeth, viz.

That if the within bounden, &c. ſhall not at any time then after be reconciled to the Pope or Sea of *Rome*, nor ſhall enter into, or conſent unto any practice, plot, or conſpiracy whatſoever againſt the Kings Majeſtie, his Heirs and Succeſſors, or any of his or their Eſtate or Eſtates, Realms, or Dominions: but ſhall within convenient time after knowledge thereof had, reveal & diſcloſe to the Kings Majeſty, his Heirs and Succeſſors, or ſome of the Lords of his or their honorable Privie Councell, all ſuch practices, plots and conſpiracies; That then this obligation to be void.

The Cuſtomer and Controller of every Port, Haven, or Creek, or one of them and their Deputies, and none other, may receive ſuch Bond to the uſes aforeſaid, and miniſter the Oath aforeſaid (taking for ſuch bond ſix pence and no more, and for ſuch oath nothing) which ſaid Cuſtomer and Controller ſhall Regiſter and certifie ſuch Bond and Oath ſo taken, into the Exchequer at *Weſtminſter* once every year, upon penalty of 5 l. for every Bond not ſo certified, and 20 s. for every Oath not ſo certified.

If any perſon put in practice to abſolve or perſwade any of the Kings Subjects from their naturall obedience to his Majeſty, either within or without the Dominions, or upon the Sea, &c. or to reconcile them to the Pope or Sea of *Rome*, or any other Prince, State or Potentate; that then every ſuch perſon, their Aiders, Counſellors and Abettors ſhall be adjudged Traitors; and every perſon which ſhall willingly be abſolved or reconciled as aforeſaid, ſhall be adjudged a Traitor.

The laſt branch ſhall not extend to any perſon which ſhall be only reconciled to the Pope or See of *Rome*, and ſhall return into this Realm, and within ſix dayes after, before the Biſhop of the Dioceſs, or two Juſtices of Peace joyntly or ſeverally, ſubmit himſelf to his Majeſties Lawes, and take
Cap. 1. the Oath of Supremacy made in the firſt year of the Queen, * and alſo the Oath mentioned in this Statute. Where Oathes are ſo taken the Biſhop and Juſtices ſhall at the next Generall or Quarter-ſeſſions certifie, upon the penalty of fourty pound.

All perſons who offend againſt this branch of the Statute ſhall be indicted and tried by the Juſtices of Aſſize and Goal-delivery of that County for the time being, or before the Juſtices of the Kings Bench, and there be proceeded againſt according to the Laws, againſt Traitors, as if the offence had been committed in the ſame County.

If any Peer of the Realm ſhall happen to be indicted of any offence made Treaſon by this Act, he ſhall be tried by his Peers.

If any perſon ſhall not reſort weekly to ſome uſuall place of Divine Service, any Juſtice of Peace in the Limit, Diviſion or Liberty, where ſuch perſon ſhall dwell, may give a Warrant to the Churchwarden of the Pariſh, upon proof or confeſſion made before him, to levy twelve pence for every

ſuch

ſuch default, by diſtreſſe, and ſale of the Goods of the offendor; and for default of ſuch diſtreſs the ſaid Juſtice may commit the offendor to priſon untill payment be made.

No man ſhall be impeached upon this clauſe, except it be within one moneth after ſuch default made.

No man being puniſhed according to this branch, ſhall for the ſame offence be puniſhed by forfeiture of twelve pence, upon the Law made in the firſt year of Queen *Eliz.*

This Statute repeals the two branches of 35 *Eliz.* 1. the firſt beginning, [and for that every perſon having houſe or family, is in bounden duty to have ſpeciall regard of the Goal governance and ordering of the ſame] and ſo forth to the next clauſe, beginning thus [provided nevertheleſſe that this Act ſhall not in any wiſe extend to puniſh or impeach any perſons for relieving, &c.] ending with theſe words [any thing in this Act contained to the contrary notwithſtanding.]

In lieu whereof every perſon which ſhall willingly maintain, relieve, or keep in his houſe any ſervant, ſojourner or ſtranger, which ſhall not repair to ſome uſuall place of Divine ſervice according to Law, by the ſpace of one moneth, not having a reaſonable excuſe, ſhall forfeit ten ſhillings for every ſuch moneth.

Every perſon which ſhall retain in ſervice, fee, or livery any perſon, which ſhall forbear to goe to ſome uſuall place of Divine ſervice by the ſpace of a moneth, ſhall forfeit for every ſuch moneth, he knowing the ſame, the ſumme of ten pounds.

This Act ſhall not extend to puniſh any perſon for maintaining, relieving or harbouring his Father or Mother, wanting without fraud any other habitation, or ſufficient maintenance, or the ward of any perſon committed by authority to the cuſtody of any by whom they ſhall be ſo relieved, maintained or kept.

The Sheriff, or other Officer upon lawfull Writ, Warrant or Proceſſe to him awarded to take or apprehend any Popiſh Recuſant, ſtanding excommunicated for recuſancy, may break open the houſe where any ſuch perſon excommunicated ſhal be, or raiſe the power of the County for apprehending ſuch perſon.

Every offence committed againſt this Act may be heard and determined before the Juſtices of the Kings Bench, and Juſtices of Aſsize: And all offences other than Treaſon ſhall be enquired, heard and determined before the Juſtices of Peace in their next Generall and Quarter-ſeſsions.

No *attainder* of Felony by this Act ſhall extend to forfeiture of Dower or corruption of blood.

The Defendant in any action commenced or brought againſt him by virtue of any thing in this Act, may plead to the generall Iſſue, by an Evidence that ſhall prove his doings or proceedings warrantable by this Law.

This Act nor any thing contained therein is ſaid not to extend to take away or abridge any authority or juriſdiction of Eccleſiaſticall cenſures.

No perſon ſhall be charged in any penalty by force of this Act, which ſhall happen for the wifes offence in not receiving the Sacrament during her Marriage, nor any woman ſhall be charged with any penalty for not receiving, during Marriage.

In all caſes where the Biſhop or Juſtices of Peace by virtue of this Act

may take of any Subject (not a Nobleman) this oath above mentioned. The Lords of the Privie Councell, or any 6 of them, whereof the Lord Chancellor, Lord Treasurer, or principle Secretary to be one, have authority to require the same at any time of any Noble-man or Noble-woman (being above the age of 18. years) and if such Noble-man or Noble-woman (other then the woman married) refuse the same, they shall incurre the penalty of a *Premunire*.

Where any person shall pass out of the Cinque-Ports, or any member thereof, to any parts beyond the seas, to serve any foreign Prince, State, or Potentate, the Lord Warden of the Cinque-Ports for the time being, or any person by him appointed, have power to take bond, and minister this oath to such passengers.

Stat. Annm. 3 Jac. cap. 5.

If any man discover any Recusant or other person which shall entertain or relieve any Jesuit, Seminary or Popish Priest, or shall discover any Mass to have been said, and the persons which were present, and the Priest, or any that were present within three daies, shall not only be freed from any penalty, but shall have the third part of the forfeiture of all such summes of money, goods and chattels, which shall be forfeited for such offence, (if the forfeiture exceed not 150*l*. if it doth exceed 150*l*. then the discoverer to have 50*l*.) and the discoverer after conviction of the offendor, shall have a certificate from the Judges or Justices of Peace before whom such conviction shall happen to be, directed to the Sheriffe, or other Officer that shall seize the goods, commanding him to pay the same accordingly.

No Popish Recusant shall come into the house where the King, or the Heir apparent shall be, unlesse commanded by the King, or by Warrant from the Lords of the privy Councell, upon penalty of one hundred pound, the one moity to the King, the other to the discoverer, who will sue for the same in any Court of Record, where no Essoine, Protection or Law Gager shall be allowed.

All convicted Popish Recusants dwelling in *London*, or within five miles within three moneths after the Session of Parliament, shall depart out of it, and not dwell within ten miles, and deliver up their names to the Lord Major if they dwell in *London*; and if such Recusant shall dwell within ten miles of *London*, to deliver up his name to the next Justice of Peace within fourty dayes after the Session of Parliament, upon the penalty of one hundred pounds, the one halfe to the King, the other to him who will sue as aforesaid.

All Recusants which shall dwell or remain in *London*, or within ten miles thereof, shall within ten dayes after indictment or conviction depart out of the said compass, and deliver up their names to the Lord Mayor. In case the said Recusant shall dwell in any County within ten miles of *London*, then within ten daies after conviction or indictment, shall give up his name to the next Justice of peace, the person offending shall forfeit one hundred pounds, the one halfe to the King, the other to the Informer as aforesaid.

Tradesmen Recusants who have no other habitation, may continue within *London*, and the compass of ten miles.

This Act repeals that branch of the 35 *Eliz. cap.* 2. touching licence of Recusants to remove or pass above five miles from their place of abode.

The King or three or more of the Privy Councell under their hands may licence a Recusant to travell out of the compass of five miles. So may four

four Justices of Peace of the County, with the privity of the Bishop of the Diocesse in writing, or of the Lieutenant, or any of the Deputy Lieutenants, the party taking his corporall oath that he truly informes them of the cause of his journey, and making no causeless stayes.

No convict Recusant shall practise the Common Law as a Councellor, Clerk, Attorney or Solicitor; nor shall practice the Civill Law as Advocate or Proctor, nor practise Physick, nor be an Apothecary, nor shall be Judge, Minister, Clerk or Steward of any Court, nor keep any Court, nor shall be Register or Town-clerk, or other Minister or Officer in any Court, nor shall bear Office, as Captain, Lieutenant, Corporall, Sergeant, Auncient-bearer, or other Office in Camp, Troop, Band or Company of Souldiers; nor bear any office in any Ship, Castle or Fortresse of the Kings, upon penalty of one hundred pounds to be forfeited as aforesaid.

No popish Recusant convict, or having a Wife convict, shall bear any publick office in the Common-wealth.

Every married woman being a Recusant convict (her husband not being convict) shall forfeit 2. third parts of her Joynture and Dower during her life, and be made uncapable of being Executrix, or Administratrix to her husband.

Every Popish Recusant convict shall be deemed as a person excommunicated so long as he continues not conformable, and not come to Divine service, and receive the Sacrament, and take the oath appointed by this Parliament in the first chap.

Yet such Recusant may sue for such of his Lands, Tenements, &c. and for the profits thereof, which are not seized into the Kings hands for his Recusancy or any part thereof.

Every convicted Popish Recusant not married in some open Church or Chappel, or otherwise then according to the Church of *England*, by a Minister lawfully authorized, shall be disabled to have any estate of Freehold by Curtesie of *England*. And every woman being a popish Recusant convict, which shall be married in other form then as aforesaid, shall be disabled not only to claim any Dower or Joynture, but also the Widowes Estate and Frankbanck in any customary Lands whereof her Husband died seized, and likewise from having part of her husbands goods by virtue of any custome of any County, City, or Place. And if a man be married contrary to the true intent of this Statute to a woman who hath no Lands or Tenements whereby he may become Tenant by Curtesie, he shall forfeit 100 l. to be paid as aforesaid.

Every Popish Recusant, which shall have a child born, and shall not within a moneth after cause it to be baptized by a lawfull Minister, according to the Lawes of the Realm in some usuall place of Baptisme: or if by infirmity the child cannot be brought to such place, then to be baptized by some Minister within the moneth, if he be living by the space of a moneth, or if he be dead, then the Mother of such Child shall for every such offence forfeit one hundred pound, one third part to the King, the other to the Informer who will sue for it, the other third part to the poor of the said Parish, to be recovered in any of the Kings Courts, wherein no Essoine, &c. shall be allowed.

If any Popish Recusant not being excommunicated shall be buried in any place other then the Church or Church-yard, or not according to the Ecclesiasticall

cleſiaſticall Lawes of the Realm: That the Executors or Adminiſtrators of every ſuch perſon ſo buried, knowing the ſame, or the party that ſo burieth him ſhall forfeit twenty pounds to be paid as aforeſaid.

If the children of any of the Subjects within this Realm (the ſaid children not being Souldiers, Mariners, Merchants, or their Apprentices or Factors) ſhall be ſent, or goe beyond ſeas without licence of the King, or ſix of the Privy Councell (whereof the principall Secretary to be one) under their hands and ſeals, that every ſuch child ſhall take no benefit by any gift, conveyance, deſcent, deviſe or otherwiſe, untill he being above the age of eighteen years take the oath mentioned in an Act made that Seſſion, intituled *An Act for the better diſcovery and repreſsing Popiſh Recuſants, &c.* before ſome Juſtice of Peace of the County where ſuch Parents of ſuch Children as ſhall be ſent, did or ſhall inhabit: In the mean time the next of kin, who is no popiſh Recuſant, ſhall enjoy all the ſaid Lands, &c. untill the perſon ſo ſent ſhal conforme himſelf and take the ſaid oath, & receive the Sacrament of the Lords Supper; and then he who hath received any profit as aforeſaid, ſhall reſtore the goods or value to him, who ſhall ſo conform himſelf: He that ſhall ſo ſend his child beyond ſeas, ſhall forfeit one hundred pounds to be recovered as aforeſaid.

No convict popiſh Recuſant ſhall preſent to a Benefice with Cure, Prebend, or grant an Advowſon, or collate or nominate to any Free-ſchool, or Donative whatſoever.

The Chancellor and Scholars of the Univerſity of *Oxford*, when any ſuch become void, ſhall have the nomination, preſentation, collation and Donation of any ſuch Benefice, Prebend, or Eccleſiaſticall Living, School, Hoſpitall and Donative, in the Counties of *Oxford, Kent, Middleſex, Suſſex, Surrey, Hampſhire, Barkſhire, Buckinghamſhire, Glouceſterſhire, Worceſterſhire, Staffordſhire, Warwickſhire, Wiltſhire, Somerſetſhire, Devonſhire, Cornwall, Dorcetſhire, Herefordſhire, Northamptonſhire, Pembrokeſhire, Carmarthenſhire, Brecknock-ſhire, Monmothſhire, Cardiganſhire Montgomeryſhire*, and the City of *London*, ſo long as the Patron ſhall remain a Recuſant convict.

The Chancellor & Scholars of the Univerſity of *Cambridge* ſhall have preſentation, &c. to all ſuch Benefices aforeſaid being in the Counties of *Eſſex, Hertfordſhire, Bedfordſhire, Cambridgſhire, Huntingtonſhire, Suffolk, Northfolk, Lincolnſhire, Rutlandſhire, Leiceſterſhire, Derbiſhire, Notinghamſhire, Shropſhire, Cheſhire, Lancaſhire, Yorkſhire*, the County of *Durham, Northumberland, Cumberland, Weſtmorland, Radnorſhire, Denbyſhire, Flintſhire, Carnarvonſhire, Angleſeyſhire, Merionethſhire, Glamorganſhire*, ſo long as the Patron ſhall continue a Recuſant convict.

Quare who ſhal have the next preſentation & nomination.

If the Chancellor and Shollars of either Univerſity ſhall nominate or preſent to any ſuch Benefice, &c. any perſon who hath any other Benefice with cure of ſouls, every ſuch nomination and preſentation ſhall be void.

A convicted Recuſant ſhall neither be Executor, or Adminiſtrator, nor Gaurdian in Chivalry or Socage.

The next of kin of the children of Recuſants convict, to whom the Eſtate cannot deſcend, who ſhall uſually reſort to Divine Service according to the Lawes, and receive the Sacrament, ſhall have the Guard and education of the children, and of the Lands and Tenemeuts holden in Knights-ſervice, untill the full age of 21 years; and of the Lands in Socage, as Guardian in Socage;

Socage; and of Cuſtomary Lands by copy of Court Roll, ſo long as the cuſtome ſhall permit the ſame, and in every of the ſaid places ſhall yeeld an account of the profits to the Ward.

All Grants of Wards either of the King or any other, to any Popiſh Recuſant ſhall be void.

No perſon ſhall bring from beyond Sea, print, ſell, or buy any Popiſh Primers, Ladies Pſalters, Manuels, Roſaries, popiſh Catechiſms, Miſſals, Breviaries, Portals, Legends and lives of Saints, containing ſuperſtitious matter, upon penalty of fourty ſhillings to be forfeited as aforeſaid, *viz*, one third part to the King, an other to the Informer who will ſue, the other to the poor of the Pariſh where ſuch book ſhall be found.

Juſtices of peace in their Limits, Mayors, Bayliffs & chief Officers in Corporations, may ſearch the houſ of every popiſh Recuſant convict, & the houſ and lodging of every perſon whoſe wife is a popiſh Recuſant convict, for popiſh books, and Relicks of Popery. And if any Altar, Pix, Beads, Pictures, or ſuch like popiſh Reliques, or any popiſh books ſhall be found, as in the opinion of ſuch Officers ſhall be thought unmeet for ſuch Recuſants, they ſhall preſently be defaced and burnt, if meet to be burnt.

All Armour, Gunpowder and Munition whatſoever any popiſh Recuſant convict hath or ſhall have, in his own houſe, or in the hands of others, ſhall be taken from them by warrant of four Juſtices of peace at their Generall or Quarter-ſeſſions (other then ſuch neceſſary weapons as the four Juſtices ſhall think meet for defence of the ſaid Recuſants in defence of their houſes) and the ſaid Armour and Munition ſo taken ſhall be kept at the coſts of the ſaid Recuſants, in ſuch places as the four Juſtices ſhall appoint.

If any ſuch Recuſant which hath ſuch armour, &c. or any perſon who hath any ſuch armour, &c. for the uſe of ſuch Recuſant, ſhall refuſe to declare unto the ſaid Juſtices of peace or any of them, or ſhall hinder or diſturb any ſuch Juſtices, or any perſon authoriſed by them to ſeize the ſame, ſhall forfeit all ſuch armour and amunition to the King, and be impriſoned by warrant from any of the Juſtices of the County, during the ſpace of three moneths, without bayl or mainprize.

This Act, nor any thing therein ſhall not abridge the authority and juriſdiction of Eccleſiaſticall cenſures.

See Statute *6 anno 7 Jacobi*, who ſhall take the oath of obedience to the King, and by whom it ſhall be miniſtred, and within what time.

If any married woman, being lawfully convict as a popiſh Recuſant, for not coming to Church, ſhall not within three moneths after ſuch conviction conform her ſelf, and repair to Church and receive the Sacrament according to Law, then ſhall ſhee be committed to priſon by one of the Kings Privy Councell, if ſhe be a Baroneſs; or if ſhe be under that degree, by two of the Juſtices of the peace of the County, whereof one of the *Quorum*, without Bail or Mainpriſe, untill ſhe conform her ſelf to come to Church, and receive the Sacrament, unleſſe the Husband ſhall pay to the King ten pounds a moneth, or the third part of his Lands and Tenements, ſo long as the Wife remaining out of priſon ſhall continue a convicted Recuſant, during which time (and no longer) ſhe ſhall have her liberty.

If the giving of the temporall powers cognizance of crimes meerly ſpiri- Annot.
tuall be objected to *Edw. 6.* Queen *Elizabeth* and King *James*. I think no man will undertake to anſwer for all things done by men; yet thus much may

may be anſwered that it was no new thing, for the Statute of 2 *H.* 5. *cap.* 7. gives Juſtices of peace and Juſtices of aſſiſe full power and authority to enquire of theſe, who hold Errors, Hereſies and Lollardy, and of their maintainers; and that the Sheriff and other Officers may arreſt and apprehend them: and that this was done by Queen *Mary*. See *Mary*.

Anno 1. *Seſſ.* 2. *cap.* 2.

Of King James.

King *James* his Title and Reception.

AS there was never any Prince who had a more clear and undoubted right and title to the Engliſh Diadem then King *James* (for beſides that he was Heir to both Houſes of *York* and *Lancaſter*, as is moſt truly acknowledged by both Houſes of Parliament *Anno* 1. *cap.* 1. *Jac.*) he was derived by a long deſcent of Royall Anceſtors from *Malcolm Conmor* or *Cammore* King of the Scots, and the Lady *Margaret* (being the name of her from whom the united Title of both Houſes of *York* and *Lancaſter* deſcended upon him) Siſter and ſole Heir of *Edgar Atheling*, Son and Heir of *Edward*, eldeſt ſon of *Edmond* ſurnamed *Ironſide*; ſo that all titles as well of right of blood, as of conqueſt, might ſo truly be ultimately reſolved into him, that in the whole world no juſt exception could be taken againſt them: ſo never was any Prince received with ſo little oppoſition and contradiction, by all ſorts of his Subjects both in *England* and *Ireland*; where all thoſe long rebellions and commotions, did expire with Queen *Elizabeth*; and in both Kingdomes all became ſo pacate and calme, that during all his Reign in neither Nation was any ſword drawn in oppoſition to him.

His care of the Church.

There was ſuch havock made in the Reign of *H.* 8. *& Ed.* 6. of all Church Lands, upon pretence (forſooth) of Reformation, that to ſtay it there was a Law made in the firſt of Queen *Eliz. cap.* 19. that all Gifts, Grants, Feofments, Fines and other Conveyances, made by any Arch-biſhop or Biſhop of any Honours, Caſtles, Manors, Lands, Tenements, or other Hereditaments, being parcell of the poſſeſſion of his Arch-biſhoprick, or Biſhoprick, or united, or appertaining or belonging to any of the ſame, to any perſon (other then the Queen her Heirs and Succeſſors) whereby any Eſtate ſhould or might paſs from the Arch-biſhop, or Biſhop other then for the term of 21 years, or three lives, reſerving the old Rent or more, ſhall be utterly void. *Cambden Eliz. Reg. pag.* 36. takes notice of the great abuſe made by the Courtiers of that clauſe, or exception of the Queen, &c. And indeed *William* of *Burley* had by the Queens permiſſion ſo gelt the Biſhoprick of *Ely* by virtue of this clauſe, that it lay void above twenty years before any man of abilities or honeſty would take it ſo pol'd and maimed, although ſome were conunitted to priſon for refuſing of it. But King *James* as his firſt and chiefeſt care by an Act of Parliament in the firſt year of his Reign *cap.* 3. made a Law that all aſſurances afterward made to the King of any of the Lands of Arch-Biſhops or Biſhops ſhould be void; ſo that the rapine and prey made upon the Church was firſt reſtrained totally by him.

His care of Religion.

King *James* was not only a devout obſervor of the Government, Rites and Ceremonies of the Church of *England*, but made it one of his chiefeſt cares to have brought an Uniformity as well in *Scotland* as in *England*; and proceeded ſo far as to ſettle Epiſcopacy among them, naming thirteen new Biſhops for ſo many Epiſcopall Sees as had been anciently in that Church; three of which received conſecration from the Biſhops of *England*, and conferred

ferred it on the reſt of their Brethren at their comming home: Which Biſhops he armed alſo with the power of an High Commiſſion, the better to keep down the inſolent and domineering ſpirit of the Presbyterians. In order to the other, he procured an Act to be paſſed in the Aſſembly at *Aberdeen* 1616. for compoſing a Liturgy, and extracting a new book of Canons out of the ſcattered Acts of their old Aſſemblies. At the Aſſembly held at *Perth anno* 1618. he obtained an Order for the receiving the Communion kneeling, for the adminiſtring Baptiſme, and the Lords Supper in private houſes in caſes of extreme neceſſity, for Epiſcopall confirmation; and finally for the celebrating the Anniverſaries of our Saviours birth, his Paſſion, Reſurrection and Aſcenſion, and the coming down of the Holy Ghoſt: all which he got confirmed in the following Parliament. So far did this wiſe King advance the work of Uniformity before his engaging in the cauſe of the *Palatinate*; his breach with *Spain*, and the warre which iſſued thereupon did divert his thoughts.

His great learning and clemency.

To his peacefull diſpoſition, and his care of the Church and Religion, in the next place may be truly added his great abilities in learning, to far tranſcending, not only the Kings of the preſent age his contemporaries, but all his predeceſſors, and ſurely ſcarcely to be paralleld by any of his time, as his many learned works teſtifie. To theſe other virtues may be added a mind no wayes vindicative, although ſometimes tranſported with preſent paſſion; yet of ſome ſmall continuance that in perſon or eſtate he was never noted to puniſh any man raſhly, or extrajudicially. And although he was no great lover of the Commons Lawes of this Land, yet a great aſſertor of them, and in diſgrace with him, would oftentimes affirm, that there was no time whenever he could ſpeak reaſon, but the King would hear him. With the reputation of theſe virtues he governed theſe Iſlands in greater peace, then poſsibly, in the ordinary nature of things, could be expected.

The cauſe of the many Laws made againſt Popiſh Recuſants.

In the 3. year of his Reign, *viz. Anno Dom.* 1605. was a moſt hainous and vile attempt, intended not only againſt the very Perſon of the King, but even of his Poſterity, which had not advanced the deſigne of the conſpirators, and the Church, and all the Nobility, (not of their faction) with the Commons in Parliament aſſembled. And the conſpirators had proceeded ſo far, that they had not only made proviſion to have effected their purpoſe; and intended the fifth of *November* (being the day for the convention of the Parliament after their Proroguement, and therefore probably expecting not only a more then uſuall convention both of the Lords and Gentry, but even of the King himſelf) to have blown up the Parliament Houſe. But the deſigne being as fooliſh as deſperate, was diſcovered the night before it ſhould have been executed (although it is thought, that it was known even to the King himſelf, and the Earl of *Salisbury* before) as by accident; and ſo had no other effect, then what the conſpirators might reaſonably have expected, had it ſucceeded, *viz.* ruine to themſelves (for their faction being ſo very few in proportion to the reſt of the Nation, and without either money, Forts, or Army, in reaſon they could not have done any thing conſiderable in order to their further deſignes) and ſevere Lawes againſt all which might be ſuſpected to be of their faction, to prevent any ſuch further attempts.

His defects and frailties.

It is true where *Tacitus* obſerves, that the conſpiracies of Subjects where they ſucceed not, doe advance the Soveraignty, and verefied in this attempt of the Gunpowder-Treaſon: for how many Lawes were that Parliament,

and afterward enacted againſt all Popiſh Recuſants, we have before ſhewed; yet ſo it happened (and ſo uſually happens, when not carefully minded by Princes) that another faction, far more formidable both to King and Church, openly pretending aſſiſtance to the King and Church in perſecuting this faction, ſecretly acquired ſtrength to themſelves in ſo doing. Nor was this unſeen by this wiſe King, (being naturally a greater enemy to the Faction perſecuting the perſecuted) but either not having that magnanimity, which is ſo requiſite in a Soveraign, or apprehending he had not means ſufficient to goe through, he neglected to apply ſuch medicines, as were neceſſary to the curing of this Gangrene ſo dilating it ſelf both in Church, Court and State; but deſiring Peace, (eſpecially at home) although almoſt upon any termes, he rather ſought to repell the breaking out of Puritaniſme during his Reign, then to eradicate it for the future. Add hereunto that being exceſſively addicted to Hunting; and not greatly loving the Common Lawes, and finding it impoſſible to govern this Nation otherwiſe; and minding controverſies in Divinity more than the management of his temporall affaires: and though free from Sacriledge and Corruption in his perſon, yet careleſſe of it in his Favourites and Countrymen: and nothing ſo prudent a Manager of the Revenues of the Crown as his Predeceſſor, whereby being forced to recede from many of his Regalities, the Reins of Government both in Church and State, became ſo looſe that (in the ordinary nature of things) it was very difficult they ſhould be reaſſumed by his Succeſſor.

Eccleſiaſticall Laws made by King Charles.

THere were ſome few Lawes made againſt Interludes, &c. on the Lords day, and 10. groats penalty for offence, to be levied by Juſtices and Conſtables, which a man may read in the firſt *Car.* 1. *&* 3 *Car.* 1.

The ſtate of the Church & State in the beginning of K. *Charles* his Reign.

There had never in any time been before this Kings Reign ſo long Peace (*viz.* for neer 80 years) in this Nation as in the beginning of his Reign; but neither doth peace make mens minds peaceable, nor were things otherwiſe well diſpoſed for the continuance of it: for not only the zealous and obſequious duty which the Subjects paid to the Royall name in the perſon of Queen *Elizabeth* was quite dead, and almoſt forgotten; the great wiſedome and learning of his Father not to be hoped for in the tender years of the Son; the Exchequer without money; and yet the King engaged in a Warre againſt the Spaniard for recovery of the *Palatinate*: but the Puritan Faction (which Queen *Elizabeth* deſired ſo much to ſuppreſſe, and ſo much hated by his Father) was grown ſo farre up in Church, State and Court, that in all they were far more numerous both in *England* and *Scotland*, and all forein Plantations, then all his other Subjects. Nor was the condition of *Ireland* better, for not only the Proteſtant party were jarring among themſelves, but the Popiſh intent upon their deſtruction, which after they did execute in a terrible manner. To theſe may be added the government both in Church and State ſo neglected, that the exerciſe of any Lawes to reduce them to conformity, would be imputed to have been Innovations and Tyranny. The Kings Councell either uncapable of giving counſell, or not faithfull to their Prince. Nor was there any thing left to oppoſe all theſe growing calamities, but the hopefull virtues of a young Prince (unacquainted in Tempo-

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rall affaires, and a ſtranger to all worldly calamities) which are of no more power to protect him againſt ſeditious and rebellious Subjects, then the Lawes of God, and all which may be called ſacred, will retain men in obedience, where they are not reſtrained by a preſent coercive power. But theſe ſtormes (which after brought this Saintlike Prince, and this wofull Church & State to ſo lamentable a condition as they lately lay under) did not breake out in the very beginning of his Reign, but in all three Nations did gather into ſuch black clouds in all his reigne, that almoſt at once breaking forth in ſuch a terrible Tempeſt, as, upon the matter, it ſo overwhelmed King, Church and Government, that there was ſcarce any footſteps of them left.

I had here deſigned to have inſerted a ſhort Hiſtory of the chiefe occurrences of his Reigne, and by what degrees this ſaint-like Prince became a victim to the rage and luſt of his ſeditious ſubjects, and have the papers now by me; but in regard it muſt needs rub ſoares, which may rather in their tenderneſſe anger then eaſe them, and alſo becauſe the Hiſtory of his life hath been by others more fully written, but moſt of all, becauſe it is his Majeſties pleaſure to have the memory of things rather buried in oblivion then renued, I ſhall forbeare, and doe no more then give the deſcription of him, and ſhew the conſequence of his calamities.

The Deſcription of King CHARLES.

IT is a thing very worthy of great conſideration, To thinke how the ſingular virtues and eminent qualities of ſo good and pious a Prince ſhould come to ſo cruell, ſo unfortunate an end; for in him was all thoſe amiable qualities, which in another age would have rendred him reverenced and admired: So ſingular Piety, *That the Portracture of King* CHARLES *in his ſufferings*, will be a Character of it beyond all expreſſion but his own; ſo ardent a zeale in Religion, that not any Regular in Religion was a more devout obſerver of his Order, then the King was of the Rites and Liturgy of the Church; So free from Simony that the ſuſpicion of it in any man, (how deſerving ſoever otherwiſe) was ſufficient bar from any advancement in the Church; So juſt, that though he every day ſaw the Puritan-faction budding out more formidably, both in Church or State, yet did he never proceede illegally or in an extrajudiciall manner againſt any man, before the ſtormes of his Adverſaries broke out upon him on every ſide; So mercifull, that the Scotiſh Lord *Balmerino An.* 1634. being legally convict of Treaſon, was pardoned by him; Nor was *Louden* proceeded againſt for holding correſpondency with the King of *France*, without the Kings privity, and giving him the Title of *Du Roy*: nor in all his Reigne (how formidable ſoever the faction grew) did he, before the war brake out againſt him, put any to death, except one in the *Lambeth* conſpiracy, for fomenting and contriving the conſpiracy againſt him: To theſe may be added a profound Judgement in the affaires both of Church & State, how much it appeared in the former, appears in the entercourſe between him and Maſter *Hinderſon*; nor was his Pietie to his Parents leſſe conſpicuous, being truly the principall Mourner at his Mothers funerall, and choſe rather to expreſſe the Piety hee owed to his Father, in attending his dead body to his grave, although contrary to the cuſtome of his predeceſſors, then to inſiſt upon nicities of State; So ſin-

gular was his conjugall love and chaſtity to his Queene, that a little before his death he commanded the Princeſſe *Elizabeth*, his daughter, to tell her Mother, that his thoughts had never ſtrayed from her, and that his love ſhould be the ſame to the laſt: Jealous he was of the honour of the Engliſh Church and Nation, and well underſtanding that where mens mindes are not well knit in Religion, nothing will long keep their affections cemented: He had a great deſire to have finiſhed King *James* his deſigne of uniting the Kirk of *Scotland* in an Uniformity with the Church of *England*, who had made ſome progreſſe in an Aſſembly held at *Aberdeen* 1616. and afterward in another at *Perth* 1618. which King *Charles* got paſſed in Parliament of *Scotland* 1633. In him was a perpetuall love to the good, and an infinite deſire of doing good to all.

Theſe noble vertues and graces towards God, his Parents, Wife and Subjects, were adorned with moſt eminent and ſingular perſonall vertues, and graces, as moderation in proſperity, magnanimity in adverſity; ſo wonderfull patience, that after the fight at *Cropredy*-bridge, in his march after the Earl of *Eſſex*, it chanced that one of his Carriages brake in a narrow long Lane, where his Majeſty was to paſſe, and gave a ſtop to him at a time when a great ſhowre of rain happened to fall: ſome of them who were neer about him offered to hew out a way through the hedges with their ſwords, that he might get ſome ſhelter in the Villages adjoyning; but he reſolved not to forſake the Canon upon any occaſion; at which ſome ſeeming to admire his patience, his Majeſty lifting up his hat, ſaid, *That as God had given him afflictions to exerciſe his patience, ſo he had given him patience to bear his afflictions.* So ſevere an obſerver of his words and actions, that he was never obſerved to ſay any thing lightly or raſhly, or in his perſonall actions did any thing which might render his perſon or authority contemptible: So temperate, that in all his life he was never obſerved diſorderly to exceed in eating or drinking; affable, yet conſerving the dignity of his Majeſty to all men; free and open in his converſation, little practicing the only leſſon which *Lewis* the eleventh would learn his Son, *Charles* the ninth, *Qui neſcit diſſimulare neſcit regnare:* So frugall, that though he had a Queen and plentifull Iſſue, and expended much more in repairing the Navy for recovering the Soveraignty of the narrow ſeas, then he received of his Subjects; and the Exchequer left empty by his Father; yet he encreaſed it before the firſt Scotiſh expedition to a greater maſs then was ever found ſince it was exhauſted by *Henry* the Eighth: So elegant and pure a ſtile he had in writing, that I expect to live to ſee it as much imitated by Engliſhmen, as *Cæſar*'s was among the Romans. Neither (which is no leſſe remarkable) were any of theſe virtues ſtained with any ſuſpected vice.

To the qualities of his mind were joyned Ornaments of his body every way anſwerable; a venerable and gracious aſpect, yet beſt when he did not ſpeak; agility of members ſo diſpoſed, that in riding the great Horſe, running the ring, vaulting, ſhooting in the Crosbow, Musket, and ſometime the great Ordinance, He was thought to be the beſt Markſman and comlieſt manager of the great Horſe of any man in the three Nations; nor was leſſe judicious in chooſing a Winter Deere (which is one of the hardeſt taskes of a Woodman) then excellent in ſhooting a Deere. Dr. *Harvey Gen. Anim. exerc.* 64. *pag.* 422. *propt. med.* affirmes him to be delighted in obſervations the Dr. made of the cauſes of Generation, from his diſſection

and

and Anatomies of the Deere in *Hampton*-Court, &c. but (whether wanting that magnanimity of looking dangers in the face upon their first budding, which is so necessary to the conservation of Regality; or whether not having sufficiently understood, that benefits conferred upon seditious men, never begot any obligation of gratitude upon them; but on the contrary they alwaies make advantage of them to get more, untill (not having more to expect, grow jealous least their benefactors might by some means better reassume them, then they extort them) they hate them, which usually ends in the murder of Princes: but thinking to overcome his adversaries by his benefits, example and clemency; or to give satisfaction to all Factions of his Subjects,) he preferred all Factions in his Court and Councell (though he excluded them out of the Church) whereby he gave vent to all the Factions, so as the veneration of the Royal name became every day more contemptible, the Factions increased daily more formidable, his counsels became distracted and betrayed, and all the treasure he had gathered, consumed in the first Northern expedition against the Scots; where having many advantages to have subdued them, he made a dishonorable peace with them, to the increase of their reputation, and losse of his own; being destitute of treasure and the Scots no whit edified by his concessions, the next year upon no cause, given by the King, they not only arm, but enter the Nation in open hostility; from his granting them their concessions the English Faction urge his granting all things how dishonourable soever, even to the shedding of humane blood; nor would they have stayed there, had not the Kings utmost necessities put him upon other resolutions of seeking his preservation otherwaies then by granting all the exercise of the *Militia* and Regalities to those men, who made so bad use of his precedent benefits and favours.

Machivel in the 26. chap. *lib.* 1. *de repub.* advises every new Prince, that unjustly possesses the City or Region of another, that by how much he understands himself more weak to conserve his Empire, either by lawfull ruling, or by instituting a free Common-wealth; by so much the more he intends this only, that as he is a new Prince, so in his Principality he does innovate all things: that he create new Magistrates marked by new names, and to them he choose new men; that he distribute the goods of the rich to poor men, and make them rich: And as it is reported of King *David*, so it may be said of him, *He hath filled the hungry with good things, and the rich he hath sent empty away, &c.* and the reason he gives, is, that no man in his Region that holds any thing, but must confesse he obtained it of the Prince. But if he be so great at policy in Princes, who unjustly possesse anothers right, to innovate all things; then in reason, besides the justness of it, there can be no greater prudence in Princes who reign by inherent birth-right, and to the wrong and prejudice of no man, to rule and govern by the old received and established Lawes of the Nation; to innovate nothing (where there is no apparent necessity) neither in Church or State, in Lawes or Religion; yet who hath not seen the most Saintlike and Glorious Monarch of the Western World (whose right was derived from innumerable ancestors, nor was there upon the face of the earth any one that could make any colourable pretence of right to his Crown) prosecuted, arraigned, condemned and executed by his own naturall Subjects, and his Queen and Posterity banished, for no other reason but because he did endeavour to have governed

The Kings cause was most prudent, as well as just.

and protected them by the known and eſtabliſhed Lawes of the Nation? So little avails the skilfulneſs of the Pilot how good, great, or juſt ſoever, if the wind of divine favour, wherewith eternall providence governs mortall affaires, help not to bring our actions to their deſired Port,

A ſhort view upon the 3. Nations ſince they caſt off their obedience

Sir *Edward Coke* in the Pleas of the Crown, *Cap. Petty Treaſon prop. fin.* obſerves, that in peruſall of all books, Hiſtories and Records, it was never found that Treaſon did ever attain the deſired end, but did alwayes prove fatall & deſtructive to the undertakers: Let any man but ſee Gods judgments upon the Kirkmen of *Scotland*, and the Roman Catholicks of *Ireland*, if they be not either vagabonds abroad, or the moſt miſerable ſlaves in the world at home; for although it ſo pleaſed the divine providence, that their iniquities prevailed againſt the King, yet did the divine vengeance overtake them by a third faction ſo new, contemptible and obſcure, that it was not only in their undertaking not feared, but in the beginning never heard of in the world. It is true indeed the Engliſh Presbyterians (who had moſt baſely accepted a canting thing called the Covenant from the Kirkmen of *Scotland*, and as injuriouſly impoſed it upon their fellow Subjects) have not been ſo highly chaſtiſed in the generall by them, as they in *Scotland*, & the Roman Catholicks in *Ireland* have; yet were they ſo far from attaining their ends, that ſince all this Nation abounded with factions, that was the moſt hated and deſpiſed by all other: Nor were the other Factions much more reconciled and true to one another then to the Presbyterians; for the Army, commanded by *Oliver Cromwell*, turned out the Rump of the Long Parliament which headed the Independent party; and after *Cromwells* death the Army receives the Rump, and diſplaces his poſterity; and ſurely in this world is not to be found in any family ſo many and ſo great diſtractions and diſſentions, as were in the late Protectors; nor did the Rump of the late Long Parliament maintain their long fought for and new reſtored Dominions, but were rejected by thoſe creatures that did reſtore them, with very ſmall hopes of ever attaining to it again. Yet did the Rump after reaſſume their ſupremacy (and proceeded as high and arrogantly as if they had never done wrong, but ſuffered all injuſtice and wrong by their interruption) when not only the Treaſure of this Nation was exhauſted, and all Crown, Church, and Delinquents Lands and Compoſitions converted and conſumed; but the whole traffique of the Nation interrupted and deſtroyed. And if it were ſo dangerous a thing to a Nation for one Faction to be formidable in Church or State, how dangerous was it where there is no viſible Church, and nothing but Factions in all the State?

Although man by nature be a ſociable creature, and men do and ever did, ſince there were any records of time, live in ſociety by right or uſurpation to ſomething ſuperior, to either the Fathers or Maſters Power; yet ſince the exerciſe of all power is politique, humane or voluntary, and therefore divers Princes govern by divers Lawes, as they ſort with the natures and diſpoſitions of their Subjects; and not only ſo, but all Princes govern their own Subjects by differing Lawes, according to their ſite and nature of their Subjects: for it were a moſt unreaſonable thing that the ſame Lawes ſhould be impoſed upon Mediterrane places, where are obſerved in *Maritime*; or that the Laws and Uſages of the City of *London* ſhould be required to be obſerved in every Country Village, &c. And ſince that ſome Nations doe almoſt without contradiction, upon all occaſions obey the Lawes of their

Princes

Princes without diſpute, as the *Muſcovites*, *Armenians*, *Perſian*, *Indians*, *&c.* others ſcarce ever, unleſſe they be governed by their ancient received Laws ordinarily,&in extraordinary caſes by Laws paſſed in ſome publick Aſſemblies, as the *Germans*, *Swedes*, *Polanders* and *Danes*; others are governed peaceably by their ancient received Laws in the uſuall adminiſtration of Juſtice, and in extraordinary caſes doe admit of new ones, having them rarely paſſed in publick Conventions; ſuch are the *Italians*, *Spaniards* and *French*; and this doth not proceed from any abject, baſeneſs or meanneſs of ſpirit; for in the world are no where found men more generous and valiant. And ſome are rarely governed long in peace, although governed by old Lawes ordinarily, and the conſent of the major part of the Freeholders (as they conceive) by their repreſentatives in paſſing new ones, as are the *Engliſh* and *Scottiſh*. And alſo ſince the corruption of the beſt thing is worſt, it will not be amiſs before we conclude this Chapter and Book, to diſcourſe this Probleme, whether upon all occaſions it be the only and neceſſary way to cure all diſtempers of State by a full convention in Parliament, according to the uſuall conſtitution: And firſt we will ſee what may be ſaid for it.

That the paſſing of Lawes in Parliament, where the major part of the Freeholders are repreſented, creates and begets a right underſtanding between the King and his Subjects, that it is not the intention of the Prince to alter the old Lawes, and introduce new ones to their prejudice. To this I ſubſcribe. *Object.* 1.

That when Lawes are ſo paſſed, it confirmes and ſtrengthens the Prince both by the perſon and purſe of his Subjects, in any deſigne he ſhall undertake, becauſe the repreſentatives of the Freeholders conſent unto it. To this I ſubſcribe. 2.

That Parliaments have been of that antiquity, and the Nation ſo habituated to them, that it will never long be governed peaceably without them. To this I ſubſcribe. 3.

That the grievances of the Nation can never be ſo well repreſented and redreſſed as in Parliament, where the major part of the Freeholders are repreſented. To this I ſubſcribe. 4.

That men will leſſe dare to abuſe their Prince or Country by any ſiniſter or indirect means when Parliaments are frequent and free. To this I ſubſcribe. 5.

The frequent uſe of Parliaments takes away all ſtrangeneſſe between the King and his Subjects, and begets a confidence, and right underſtanding between them. To this I ſubſcribe. 6.

That ſince it is neceſſary that every Prince in governing muſt neceſſarily ultimately reſolve his confidence into ſomething beſides the Lawes, to which upon all occaſions he may betake himſelf for the Execution, and defence of himſelf and Subjects; and this muſt be by a conſtant Army in pay of his Subjects, according to the inſtitution of the Roman Legions: or out of a diffidence of his own Subjects, or from ſome reaſon of ſtate, truſt the protection of his Perſon, and Lawes into the hands of Foreigners, as did the Kings of *Ægypt* before *Selymus* conquered them; or as the King of *France* now does in the hands of *Switz* and *Scots*; or he muſt betake himſelf to the protection of a mercinary Army made up of his Subjects and Foreiners, as the Turks Janizaries and *Spahi* are: or eſtabliſhe his ſecurity and refuge upthe affections of his ſubjects, and intruſt them with the Militia in ſuch manner as hath beene uſed heretofore in *England*, and that this agrees better 7.

with

with the nature and conſtitution of Engliſh-men then any of the other, as being eſtabliſhed as well by common-Law, as many Acts of Parliament. To this I ſubſcribe.

To theſe may be added, that *Tacitus* in the life of *Agricola*, makes it one great cauſe of the Romans conquering our Anceſtors, That they conſulted not in common. *Nec aliud adverſus validiſſimas Gentes pro nobis utilius, quam quod in commune non conſultant. Rarus ad Propulſandum commune periculum conventus : Ita dum ſinguli pugnant, univerſi vincuntur.*

Quære Yet *quære* whether *Riſing*-Chaſe in *Norfolke*, and old *Sarum* in *Wilts*, where are no Inhabitants but a few meane Tenants, ſending twice the numbers to the Parliament with the county of *Yorke*; and whether the County and City of *Durham*, ſending none at all; and whether *Cornwall*'s ſending ten times as many as either *Warwick-ſhire* or *Leiceſterſhire*, and yet eyther of them bigger and far more rich Counties; Or whether Cities and Boroughs not only ſending a like number of Citizens and Burgeſſes with the County, having alike Vote with them of the County, be an equall repreſentative of the Freeholders? Or whether the waies uſed in the Elections doe not animate the Electors, and thoſe that ſtand in Competition againſt one another, and that to ſuch a height, That many of the Electors and thoſe who ſtand, are never after reconciled?

Anſwer. It is true indeed, that if God had determined all things in this inferior Orbe without any variation, and that this thing were alwaies to be attained only by ſome one means, & that this in governing were by councell in Parliament, then could there be neither reaſon or diſcourſe upon variation and alteration of things, and no difference betweene the wiſeſt of Princes, and the moſt fooliſh; but this is ſo far from truth that there is nothing ſublunary not only variable, but doth vary every moment; neither is there any thing in Reaſon, Phyſick or State alike to all men; nay in all of them, the ſame thing, may be at one time good and profitable, at another time bad and hurtfull: What man ſees not that in health, nature is not repaired by any man, without a proportionable meaſure of diet, which when he is indiſpoſed may ſurcharge nature, to the overthrow of it, in him? Strong phyſick may be proper to a man at one time, and kill him at another. Parliaments, although ordinarily are the Kings ſureſt refuge, yet by how much they are more excellent, by ſo much the worſe are they corrupted. Times are and will be bad when they are not made ſo by any cauſe in the Prince, and ſo bad that in ſuch conjuncture it may prove the utmoſt evill, if the Houſes, or eyther of them ſhall aſſume the title of Parliament, or give head to ſuch Factions and diſtempers. And no queſtion when the Scots invaded England in 1640, it was unſafe Councell that adviſed the King to ſummon a Parliament, and worſt of all to convene it at London, as things then ſtood. For that ſaying of *Tacitus* it is rather Rhetoricall, and makes againſt the Antiquity of Parliaments, then any way proves neceſſity of them upon all occaſions, unleſs he could make *conſulere* and *pugnare* the ſame thing: nor could *Agricola* ever have obteined ſuch victory againſt our Anceſtors, if he had fought with no more then had councelled him.

Epilogue.

WHen I looke back and conſider the unſtable condition of mankinde, eſpecially among Iſlanders, and that often times the fate of good, religious and juſt men, is, in this World more calamitous, then of bad and vi-

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cious men; I did then conclude with my self, that Religion, Justice and Piety cannot of themselves procure peace and society to mankind: nay what is yet more lamentable, that first sublunary cause from whence all Subjects derive and expect their protection, is more subject to calamity, then the condition of the meaneſt of mortall men. Let a man take a survey of all the Kings in *Britain* since there were any Records of time, and see whether neer one halfe of them did attain a naturall death; nor is this confined within the Seas which encompass our Isle, or a new thing in other parts of the world, for,

Juvenal *Sat.* 10. *Ad generum Cereris sine cæde, & sanguine pauci Descendunt Reges.* ——————

I shall therefore before I conclude, endeavour to shew whether any peace and happinesse may be reasonably expected in this World, and if that may, then by what means it is to be attained; but that I might by degrees accomplish my end, I begin with man in his first Cause and being.

Man then in his first being is to be considered, either as created or begotten; as created, sure no man in his wits will deny but that God was the prime and only efficient cause of his creation, who without any ordinary concurrence of naturall causes did so create him: and that this was not from a confluence of naturall causes, is evident; for otherwise it had been a Generation, not a Creation; and necessarily something must be Created before any thing can be Generated of it.

Nor is God (if a man rightly considers it) lesse the prime and efficient cause of man in his Generation then in his Creation: for it must needs be evident to every man, That male and female are not the first cause of Generation, because then they would alike of themselves, without the influence of a superiour cause be apted for Generation, and so every Creature of it selfe in a like power of Generating, one as much as another; the contrary of which every one daily sees. Nor are all Creatures at all times alike disposed to Generation, but apted and disposed thereunto from some exterior cause; as we see in Foxes about the Brumall solstice, and Ravens in January, other creatures generally about the Vernal Equinox, and Deere about the Autumnall; which without all doubt doth proceed from the influence of the Sun, which in those seasons disposes them thereunto: but that the Sun is not the prime and efficient cause of Generation is confessed by *Aristotle*, where hee saith * That in *omni creatura divinum quid reperiri, respondens Elemento stellarum, esseque omnipotentis creatoris vicarium*, It is not therefore the Sun, nor male and female, which can be the first cause of a man, or any other creature; but that minde or Soul which governs the innumerable and vast bodies of the Univers, and by a perpetuall motion of the Earth from West to East, according to the new Hypotheses in Astronomy, or of the Sun from East to West, after the former Hypotheses, through the divers Regions of the Earth, doth apt and dispose all things therein to their production and dissolution. So that God is the prime & efficient cause, as wel in the generation, as creation of man & other creatures, the manner only is different, God in generation from the confluence of necessary & contingent causes, doth Generate Man and other creatures, and originally did create them without any confluence of causes. Nor is God lesse the prime preserver of all Creatures, then the first cause of the Creation and Generation of them: for not all the sublunary meanes of eating, drinking, sleeping, exercise, physick, &c. can

* *Lib. 2. cap. 3. de Gen. Anim.*

preserve any creature thus Generated or Created, but some internall cause, whether it be called *anima?* or *pars animæ?* or *quid animæ?* or *aliquid habens animam; aut intellectus? aut denique numen?* and this is it in every Creature which doth worke towards its end, and orders all these things with unimitable and incomprehensible art and providence, & alwaies procures what is best, as well for its being, as well-being, as well for defence as ornament.

Spiritus intus alit, totamque infusa per artus,
Mens agitat molem. ——— *Virg. Æneid.*

And though all these outward things, however necessary for the preservation of every Creature, are accidentall and may be more or less acquired and communicated by every creature; yet this internall cause, this *numen*, this *Lar familiare*, or *anima*, which disposes and orders all these outward causes, is not to be acquired or communicated by any Creature; So that a man must needs confesse That in all Creatures, as well as Man, there is some particle of divine Aire, which doth order and dispose of all sublunary meanes in a wonderfull and diverse manner towards their preservation, untill by a propense naturall disposition, they all resolve into their first Principles.

But these outward meanes are acquired and communicated, by severall Creatures, divers and severall waies. Some doe acquire these outward meanes from an innate impulse, never with understanding or reason moving them; others rarely without their understanding or reason, and this latter only is Man.

Yet how fraile a mans reason and understanding is, even to the acquiring of things necessary for his preservation, is evidenly seen almost in all men; for there is no man in this world who can by his understanding and reason so govern his actions, that those things so directed by him, have alwaies a like event; nay often times the same thing propounded by the same man, upon the same grounds and reasons hath so contrary an event, that at this time it ruins him, which other while was of much advantage to him. And this is daily seen among all sorts of men, so that it is most manifest that a mans understanding or reason cannot preserve him, as he is an intellectuall & rationall Creature, nor Justice, Religion, and Piety as a sociable, but somthing superior to these.

What then shall we say to these things? Is Religion, Justice and Piety, and a mans understanding and reason of no account, because they cannot procure peace and preservation? Nothing lesse; for God having first created man and other creatures without the confluence of naturall causes, did ever after their first creation cease to make any other, but the species of all things have ever since been renewed by Generation: but in Generation God doth not renew the species of all creatures, from an absolute act of his own, but from the coition of male and female disposed thereunto, in perfect creatures: & oftentimes from matter disposed, many creatures are æquivocally generated, without the coition of male and female, which thing is evidently seene from the yeerly renuing of of frogs, caterpillars, &c. The antient Ægyptians from the observation of the very many creatures thus generated, in the River *Nile*, did believe that all perfect creatures were originally, not from creation, but from æquivocal generation. Yet though these spurious and imperfect creatures are thus generated, yet do they all generate their like; *Aristotle* only excepts the Eele; and I could never yet see either Row or Milt in any of them. But though God be the prime & efficient cause of the generation

Hist. Anim.

all

of all creatures, and therefore abſolutely neceſſary to the production of every creature; & though the conditions which he hath ordained be abſolutely neceſſary to the generation of every creature; yet are not theſe conditions always performed from any abſolute neceſſity of the part of God, but oftentimes from contingent cauſes, and the will of the creature: For example, it is neceſſary that the influence of the Sun from matter diſpoſed in ſtanding pools, ſhould produce Frogs, yet are not always thoſe pools neceſſary to be, but are often made, and often filled up, from voluntary and contingent cauſes of man. So *contactus naturalis* in bodies apted and diſpoſed doth neceſſarily generate, yet is there no neceſſity that this *contactus* ſhould be, but it might not have been, &c. Univerſal cauſes in nature produce nothing of themſelves, but as meeting with particular and material cauſes diſpoſed to production, the univerſal cauſes are always prime and neceſſary, but their meeting with particular cauſes are not always ſo, but oftentimes contingent and voluntary.

As God, by the confluence of natural cauſes, is always the firſt cauſe of all creatures by generation, ſo is he the firſt cauſe of the preſervation of all creatures; yet doth not he preſerve them by any abſolute neceſſity of his part alone, but by ſuch means as he hath ordained for every creature. I ſay this means doth not always come to paſs from inevitable neceſſity of the part of God, but oftentimes from the will of men, and contingent cauſes; for example, no man lives but as he daily repairs nature by eating and drinking, yet there is no neceſſity that he ſhould eat or drink, but he may chuſe whether he will or not.

Nor is God leſs the prime preſerver of intellectual and rational creatures; yet doth he not preſerve them as other creatures void of underſtanding, but thus uſing the intellectual and rational faculty of their Soul, yet there is no man but may chuſe whether he will uſe his underſtanding and reaſon in his actions: and that man who doth not uſe his underſtanding in his actions, but only his affections and paſſions, how great ſoever he be, will live to ſee miſery enough.

And though Religion and Juſtice cannot of themſelves preſerve men in peace and happineſs, but ſome ſuperiour cauſe which muſt order and diſpoſe them thereunto; yet ſo neceſſary are they for the preſervation of peace and happineſs, that whereſoever they are neglected, men did ever degenerate into diſtraction, confuſion and prophaneneſs. This ſuperior cauſe which dignifies men above all other creatures, as well intellectual as ſociable, is God, who is the prime, efficient and neceſſary cauſe of peace and happineſs among ſociable creatures; and Religion and Juſtice are the neceſſary means which he hath ordained therefore. But though Religion & Juſtice be neceſſary for the peace and happineſs of any Nation, yet is it not always neceſſary on Gods part men ſhould be Religious and Juſt; but men may chuſe whether they will do religious and juſt acts or not. God therefore is the firſt and neceſſary cauſe of peace and happineſs among men, and Religion and Juſtice the neceſſary means which he hath ordained thereunto, and this to be performed by man; and let no man think that God will ſave any man in this world, or bleſs him in the world to come againſt his Will, when men will not endeavour theſe things by ſuch means as he hath ordained. Man therefore by Religion and Juſtice ought to endeavour through God's bleſſing to attain to

peace and happiness, as well in this world, as in the next, without which he cannot reasonably hope for either.

Since therefore Religion *strictè sumtum*, means nothing in a publick form of Worship of God, and Justice *strictè sumta*, the regular conforming of subjects actions to the Laws of their rightful Superiours, are so necessary for the preservation of peace and society among men, and since it is his Majesty (as by Divine Election) indeavours to have the established Liturgy and Laws of the Land to be the Rule of Religion and Justice, it will necessarily follow, that if his subjects shall still continue refractory, and not conform to them, the fault will be theirs, not his Majesties, if the dissentions are continued among us. *Socrates* requires of *Euthyphro*, *Plato Euthy.* that wheresoever men are at difference, there must be some certain Rule to which the men in difference must indifferently submit, or the differences will be endless, and if the established Liturgy and Laws will not decide our differences in Church and state, then what visible means under Heaven can we expect should?

If his Majesty or the Church should command any thing derogatory to the honour of God, men might plead conscience for non conforming; but it is very strange that men should pretend conscience (which always supposes a submission to Laws) to set up themselves above the Laws and Authority of the Church, and expect to have the means of the Church ordained to maintain its peace and unity, to become Schisms and distractions thereto.

For my part, I acknowledge, that I have ultimately resolved my subjection as a man, and my Faith as a Christian, into two principles; the one into the Laws of Nature, the other into the holy Scriptures, which are extraordinarily and supernaturally revealed by God for the salvation of mankind. *Dominium fundatur in naturâ*, as no one or place did ever men live out of Society, and Dominion is necessary to Society; but which is divinely revealed in the Scriptures, and thus hapned in succession of time, nor is it yet received by the greater part of mankind, nor will I ever hope comprehend what God hath made. The very Heathens would never enclude their differences in Religion and Sacred Rites, should be determined in their civil Courts, but referred them to the Oracle of *Apollo*. It is therefore an idle thing to object *Imperium in imperio* against it; nor is the objection of any purpose, or understood by the objectors, for it is the same God that has engraven the Laws of Nature in mens minds, and who hath divinely revealed himself in the Scriptures: neither is there any thing in either, which is repugnant or contrary, but rather the one does confirm and support the other. There is no better Plea for mens subjection to Kings, Parents, Masters, than is contained in the Scriptures: nor does Christianity any ways repugn the Regality of Princes, but it is as intire over the persons of all their Subjects in all Cases, as where men are not Christian. Were not those the best Christians, who in the Primitive times lived under Heathen Emperours and persecutors, without any civil disturbance on their parts? and can not Christians be as good under Christian Kings? or is the case of Kings the worse for their being Christian? Let any man shew me any thing in the Scriptures which any way countenances Sedition, and I will

will abjure my Christianity; yet I will shew him very many places, which without contradiction command obedience to Higher Powers. They are therefore Wolves in Sheeps clothing, who abuse the Ghostly Power, which is not of this world, but left by our Saviour for the benefit of mans Salvation, into licentiousness, against their Temporal obedience, due as well by the Law of Nature, as that of divine positive institution; and deserve rather to be persecuted to death, than obeyed when they do it: and by consequence Mr. *Hobbs* understands not himself where he brings his convenient Argument against Christianity, upon supposition, that if one man command the same thing upon penalty of Temporal death, and another forbid it upon pain of Eternal, the whole structure of his *civitas* might be dissolved, which is no great matter if it were. *Cap. 6. Art. 13. de cive.*

But I pray what does Mr. *Hobbs* do, that makes the Law of Nature to be the Dictate of Reason, and yet that, and all Religion to proceed from the passion of fear? whereas dictates of reason are abstracted from all passions and affections, and those actions which proceed from them, are common to many irrational creatures, as well as men: which makes the dictates or consequence of reason, which flow from the Law of Nature, to be the Law of Nature? thereby not confounding, but inverting all Logick and Laws of argumentation: which makes the rights of Nature not only different, but contrary to the Law of Nature? which makes the Law of Nature or God, not superior to the will of men, but depending upon the will of men, and founded upon the Civil pact? which makes the *civitas*, a creature of a creature, so infallible, as it is impossible to command any thing against the Law of Nature? and yet Tyranny to be only *ab exercitio*? which makes all Ghostly Power constituted and ordained by our Saviour, to continue till his next coming, instrumental and subservient to the *civitas*? from whence it must necessarily follow, that every man who has not entred into the Civil pact, is neither subject to the Law of Nature, or Gods divine positive institutions; but every man that hath, may free himself from either, when he will, if that rule be true, as it is, *Cujus est velle, ejus est nolle.*

I Have made an Index, conceiving the Contents of the Chapters and the Heads of the Paragraphs, to be sufficient for this Treatise. I desire the Reader to correct these faults before he begin: other smaller faults of literal errors and pointing, his candour may pass over.

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peace and happineſs, as well in this world, as in the next, without which he cannot reaſonably hope for either.

Since therefore Religion (*viz.* mens uniting in a publick form of Worſhip of God, and Juſtice (*viz.* the upright conforming of ſubjects actions to the Laws of their rightful Superiours) are ſo neceſſary for the preſervation of peace and ſociety among men; and ſince, His Majeſty (as by Divine Election) indeavours to have the eſtabliſhed Lyturgy and Laws of the Land to be the Rule of Religion and Juſtice; it will neceſſarily follow, that if his ſubjects ſhall ſtill continue refractory, and not conform to them, the fault will be theirs, not his Majeſties, if the diſſentions are continued among us. *Socrates* requires of *Euthypro*, that whereſoever men are at difference, there muſt be ſome certain Rule to which the men in difference muſt indifferently ſubmit, or the differences will be endleſs, and if the eſtabliſhed Lyturgy and Laws will not decide our differences in Church and State, then what viſible means under Heaven can we expect ſhould?

Plato Euthy.

If his Majeſty or the Church ſhould command any thing derogatory to the honour of God, men might plead conſcience for not conforming: but it is very ſtrange that men ſhould pretend conſcience (which alwayes ſuppoſes a ſubmiſſion to Laws) to ſet up themſelves above the Laws and Authority of the Church, and expect to have the means of the Church (ordained to maintain its peace and unity) to foment Schiſm and diſtractions therein.

For my part, I acknowledge, that I have ultimately reſolved my ſubjection as a man, and my Faith as a Chriſtian, into two principles; the one into the Law of Nature, the other into the holy Scriptures, which are extraordinarily and ſupernaturally revealed by God for the ſalvation of mankind. *Dominium fundatur in naturâ*, at no time or place did ever men live out of Society, and Dominion is neceſſary to Society: but faith is divinely revealed in the Scriptures, and this hapned in ſucceſſion of time, nor is it yet received by far the greater part of mankind; nor will I ever hope to mend what God hath made. The very Heathens would never endure their differencies in Religion and Sacred Rites, ſhould be determined in their civil Courts, but referred them to the Oracle of *Apollo*. It is therefore an Idle thing to object *Imperium in imperio* againſt it; nor is the objection to any purpoſe, or underſtood by the objectors; for it is the ſame God that has engraven the Laws of Nature in mens minds, and who hath divinely revealed himſelf in the Scriptures: neither is there any thing in either, which is repugnant or contrary, but rather the one does confirm and ſupport the other. There is no better Plea for mens ſubjection to Kings, Parents, or Maſters, than is contained in the Scriptures: nor does Chriſtianity any wayes repugn the Regality of Princes, but it is as intire over the perſons of all their Subjects in all Caſes, as where men are not Chriſtian. Were not thoſe the beſt Chriſtians, who in the Primitive times lived under Heathen Emperours and perſecutors, without any civil diſturbance on their parts? and cannot Chriſtians be as good under Chriſtian Kings? or is the caſe of Kings the worſe for their being Chriſtian? Let any man ſhew me any thing in the Scriptures which any way countenances Sedition, and I

will

will abjure my Christianity; yet I will shew him very many places, which without contradiction command obedience to Higher Powers. They are therefore Wolves in Sheeps clothing, who abuse the Ghostly Power, which is not of this world, but left by our Saviour for the benefit of mans Salvation, into licentiousness, against their Temporal obedience, due as well by the Law of Nature, as that of divine positive institution: and deserve rather to be persecuted to death, than obeyed when they do it: and by consequence Mr. *Hobbs* understands not himself where he brings his convenient Argument against Christianity, upon supposition, that if one man command the same thing upon penalty of Temporal death, and another forbid it upon pain of Eternal, the whole structure of his *civitas* might be dissolved, which is no great matter if it were. *Cap. 6. Art. 13. de cive.*

But I pray what does Mr. *Hobbs* do, that makes the Law of Nature to be the Dictate of Reason, and yet that, and all Religion to proceed from the passion of fear? whereas dictates of reason are abstracted from all passions and affections, and those actions which proceed from them, are common to many irrational creatures, as well as men: which makes the dictates or consequence of reason, which flow from the Law of Nature, to be the Law of Nature? thereby not confounding, but inverting all Logick and Laws of argumentation: which makes the rights of Nature not only different, but contrary to the Law of Nature? which makes the Law of Nature or God, not superior to the will of men, but depending upon the will of men, and founded upon the Civil pact? which makes the *civitas*, a creature of a creature, so infallible, as it is impossible to command any thing against the Law of Nature? and yet Tyranny to be only *ab exercitio*? which makes all Ghostly Power constituted and ordained by our Saviour, to continue till his next coming, instrumental and subservient to the *civitas*? from whence it must necessarily follow, that every man who has not entred into the Civil pact, is neither subject to the Law of Nature, or Gods divine positive institutions; but every man that hath, may free himself from either, when he will, if that rule be true, as it is, *Cujus est velle, ejus est nolle.*

I Have made no Index, conceiving the Contents of the Chapters, and the Heads of the Paragraphs, to be sufficient for this Treatise. I desire the Reader to correct these faults before he begin: other smaller faults of literal errors and pointing, his candour may pass over.

Dedicat.] p. 4. *l. ult. dele* who. *p.* 11. *l* 1. *r.* duties. *p.* 12. *l.* 7. *r.* afflictions.
Observat.] *p.* 5. *Ground* 3. *for* grounds *r.* belief. *p.* 20. *last line but* 3. *r.* Chief men Government. *p.* 30. *l.* 28. *r.* any other Bishops. *p.* 47. *l.* 8. *r.* Regal. *p.* 52. *Marg. for* 512. *r.* 768.
Apparatus] *p.* 3. *l.* 20. *r.* breed. *p.* 4. *l.* 10. *for* to direct, *r.* so direct.
Elements] *Cap.* 1. *Par.* 1. *line ult. for* 5th. *r.* 4th. *Amot. Par.* 9. *for* Cap. 11. *r.* Cap. 1. *Par. p.* 12. *Para.* 15. *l.* 1. *for* next chap. *r.* sixt chap. *p.* 16. *l.* 22. *r.* νόμιμα. *p.* 31. *Par.* 14. *l.* 4. *for* to them, *r.* to it. *p.* 34. *l.* 7. *r.* and the essential. *p.* 41. *l. penult. parag.* 19. *dele* Henry the 4th. *p.* 49. *dele tit. of the Para. and read*, Wherein consists the perfection of Government. *p.* 57. *Para.* 3. *l.* 5. *r.* Silius. *p.* 58. *Marg. r.* Βασιλεῖαι. *p.* 6. *para.* 10. *l.* 2. *r.* cap. 2. *p.* 107. *l.* 14. *for* the conditions, *r.* and conditions. *p.* 139 *l.* 13. *for* 10th. *r.* 17. *l.* 39. *for* peace in, *r.* for peace not in. *p.* 158. *Marg. for* Zong-Dagar, *r.* Gong dagar. *p.* 186. *for* 107. *r.* 170. *p.* 219. *l. ult. r.* injunctum. *p.* 243. *for* exception, *r.* acception. *for* obsecrable, *r.* observable. *p.* 257. *l.* 33. *dele* not only. *p.* 259. *l.* 38. *r.* Au Roy. *p.* 260. *l.* 31. *for* ninth, *r.* eighth. *p.* 261. *l.* 40. *r.* But if it be so great. *p.* 263. *Marg. dele* objection. *p.* 264. *l.* 22 *for* and that, *r.* or that. *Wheresoever you read* Civitate donati, *add*, or free Citizens.

FINIS.

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